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EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

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गृह मंत्रालय  
अधिसूचना

नई दिल्ली, 27 मार्च, 2023

**का.आ. 1435(अ).**—जबकि, केन्द्रीय सरकार ने, विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) तथा उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उप-खंड-II में दिनांक 28 सितम्बर, 2022 को प्रकाशित भारत सरकार के गृह मंत्रालय की दिनांक 27 सितम्बर, 2022 की अधिसूचना संख्या का.आ. 4559 (अ) (जिसे इसके बाद उक्त अधिसूचना कहा गया है) के तहत पॉपुलर फ्रंट ऑफ इंडिया (पीएफआई) और इसके सहयोगी संगठनों या सम्बद्ध संस्थाओं या अग्रणी संगठनों, रिहैब इंडिया फाउंडेशन (आरआईएफ), कैपस फ्रंट ऑफ इंडिया (सीएफआई), आल इंडिया इमाम काउंसिल (एआईआईसी), नेशनल कॉन्फेडरेशन ऑफ़ ह्यूमन राइट्स ऑर्गेनाइजेशन (एनसीएचआरओ), नेशनल विमेंस फ्रंट, जूनियर फ्रंट, एम्पावर इंडिया फाउंडेशन और रिहैब फाउंडेशन, केरल सहित को विधिविरुद्ध संगम घोषित किया था ;

और, जबकि, केन्द्रीय सरकार ने उक्त अधिनियम की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र, असाधारण, भाग-II, खण्ड-3, उप-खंड (ii) दिनांक 6 अक्टूबर, 2022 को प्रकाशित भारत सरकार के गृह मंत्रालय की अधिसूचना संख्या का.आ. 4758(अ) दिनांक 6 अक्टूबर, 2022 द्वारा विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण (जिसे इसके बाद उक्त अधिकरण कहा गया है) जिसमें न्यायमूर्ति दिनेश कुमार शर्मा, दिल्ली उच्च न्यायालय शामिल थे, का गठन किया था;

और, जबकि, केन्द्रीय सरकार ने उक्त अधिनियम की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस न्यायनिर्णयन के प्रयोजन के लिए कि क्या पॉपुलर फ्रंट ऑफ इंडिया (पीएफआई) और इसके सहयोगी संगठनों या

सम्बद्ध संस्थाओं या अग्रणी संगठनों, रिहैब इंडिया फाउंडेशन (आरआईएफ), कैपस फ्रंट ऑफ इंडिया (सीएफआई), आल इंडिया इमाम काउंसिल (एआईआईसी), नेशनल कॉन्फेडरेशन ऑफ ह्यूमन राइट्स आर्गेनाइजेशन (एनसीएचआरओ), नेशनल विमेंस फ्रंट, जूनियर फ्रंट, एम्पावर इंडिया फाउंडेशन और रिहैब फाउंडेशन, केरल सहित को विधिविरुद्ध संगम घोषित किए जाने का पर्याप्त कारण था या नहीं, दिनांक 26 अक्टूबर, 2022 को उक्त अधिकरण को उक्त अधिसूचना संदर्भित की थी;

और, जबकि, उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 21 मार्च, 2023 को किए गए अपने आदेश द्वारा, उक्त अधिसूचना में की गई घोषणा की पुष्टि की है ;

अतः, अब, केन्द्रीय सरकार एतद्वारा उक्त अधिनियम की धारा 4 की उप-धारा (4) के अनुसरण में उक्त अधिकरण के उक्त आदेश को प्रकाशित करती है, अर्थात्:-

(अधिकरण का आदेश अंग्रेजी भाग में छपा है)

[फा. सं. 14017/ 2 /2023-एन आई- एमएफओ]

प्रवीण वशिष्ठ, अपर सचिव

## MINISTRY OF HOME AFFAIRS

### NOTIFICATION

New Delhi, the 27th March, 2023

**S.O. 1435(E).**—Whereas the Central Government in exercise of the powers conferred under sub-section (1) and (3) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as the said Act), had declared the Popular Front of India (PFI) and its associates or affiliates or fronts including Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women's Front, Junior Front, Empower India Foundation and Rehab Foundation, Kerala as an unlawful association *vide* notification of the Government of India in the Ministry of Home Affairs, number S.O. 4559 (E), dated the 27<sup>th</sup> September, 2022 (herein after referred to as the said notification), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) dated the 28<sup>th</sup> September, 2022;

And, whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, had constituted the Unlawful Activities (Prevention) Tribunal (hereinafter referred to as the said Tribunal) consisting of Justice Dinesh Kumar Sharma, High Court of Delhi, *vide* notification of the Government of India in the Ministry of Home Affairs number S.O. 4758 (E), dated the 6<sup>th</sup> October, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 6<sup>th</sup> October, 2022 ;

And, whereas, the Central Government in exercise of the powers conferred by sub-section (1) of section 4 of the said Act referred the said notification to the said Tribunal on the 26<sup>th</sup> October, 2022 for the purpose of adjudicating whether or not there was sufficient cause for declaring the Popular Front of India (PFI) and its associates or affiliates or fronts including Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women's Front, Junior Front, Empower India Foundation and Rehab Foundation, Kerala as an unlawful association ;

And, whereas, the said Tribunal in exercise of the powers conferred by sub-section (3) of section 4 of the said Act, passed an order on the 21<sup>st</sup> March, 2023, confirming the declaration made in the said notification;

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the said order of the said Tribunal, namely :-

### UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

### HIGH COURT OF DELHI, AT NEW DELHI

#### IN THE MATTER OF: -

Notification bearing No. S.O.4559 (E) dated 27<sup>th</sup> September, 2022, published in the Official Gazette on 28<sup>th</sup> September, 2022 declaring the Popular Front of India (PFI) and its associates or affiliates or fronts including Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women's Front (NWF), Junior Front (JF), Empower India Foundation (EIF) and Rehab Foundation, Kerala (RFK) as "unlawful association" in exercise of the powers conferred

by sub-sections (1) and (3) of Section-3 of the Unlawful Activities (Prevention), 1967 read with Notification No. S.O. 4758(E) dated 06<sup>th</sup> October, 2022

**AND IN THE MATTER OF: -**

Reference under Section 4(1) of the Unlawful Activities (Prevention), 1967 read with Rule 5(i) and (ii) of the Unlawful Activities (Prevention) Rules 1968 made to the Tribunal by the Government of India through Ministry of Home Affairs vide letter bearing no.14017 / 10/2022-NI-MFO dated 26<sup>th</sup> October, 2022.

Mr. Tushar Mehta, Ld. SG

Mr. S.V. Raju, Ld. ASG

Mr. Puneet Mittal, Ld. Senior Advocate

Ms. Sonia Mathur, Ld. Senior Advocate

Mr. Anurag Jain, Ld. Advocate

Mr. Anurag Ahluwalia, Ld. Advocate

Mr. Sabarish Subramanian, Ld. Advocate

Mr. Udai Khanna, Ld. Advocate

Mr. Chandan Kumar Pandey, Ld. Advocate

Ms. Sairica Raju, Ld. Advocate

Mr. Zoheb Hossain, Ld. Advocate

Mr. Madhav Khurana, Ld. Advocate

Mr. Narendra L. Jain, Ld. Advocate

Mr. Guntur Pramod Kumar, Ld. Advocate

Mr. Annam Venkatesh Rao, Ld. Advocate

Mr. Advitya Awasthi, Ld. Advocate

Mr. Adit Khorana, Ld. Advocate

Mr. Ankit Bhatia, Ld. Advocate

Mr. Hitarth Raja, Ld. Advocate

Mr. Bhriugu A. Pamidighantam, Ld. Advocate

Mr. Samarth K. Luthra, Ld. Advocate

Mr. Anshuman Singh, Ld. Advocate

Ms. Ankeeta Appana, Ld. Advocate

Ms. Varnika Gupta, Ld. Advocate

Ms. Agrimaa Singh, Ld. Advocate

Ms. Ronika Tater, Ld. Advocate

Ms. Pratiksha Mishra, Ld. Advocate

Ms. Rupakshi Soni, Ld. Advocate

Mr. Ujwal Ghai, Ld. Advocate

Mr. Abhigyan Siddhanti, Ld. Advocate

Mr. Harsh Paul Singh, Ld. Advocate

Mr. Nandini Prakash, Ld. Advocates for UOI

Mr. Ashok Agrawal, Ms. Sridevi Panikkar, Mr. S. Balakrishnan and Mr. Shaikh Shaipan, Ld. Advocates for PFI (through erstwhile Office Bearers / Members)

Mr. Mobin Akhtar, Mr. Mohd. Arif Hussain, Mr. Mohd Saad, Ld. Advocates for AIIC and CFI (through erstwhile Office Bearers / Members)

Mr. Kartik Venu, Ld. Advocate for NWF (through erstwhile Office Bearers / Members)

Mr. Aditya Wadhwa, Mr. A. Nowfal, Mr. Ayush Shrivastava, and Mr. Kanishk, Ld. Advocates for NCHRO (through erstwhile Office Bearers / Members)

Mr. P.A. Noor Muhamed and Mr. Abdul Shukoor, Ld. Advocates for Empower India Foundation and Rehab Foundation Kerala (through erstwhile Office Bearers / Members)

Mr. Adit Pujari, Mr. Gautam Khazanchi and Mr. Vaibhav Dubey, Ld. Advocates for Rehab India Foundation (through erstwhile Office Bearers / Members)

Mr. Hiranmay Biswas, Research Officer along with Sh. Deepak Shinde, Dy. Secretary, Sh. Satya Prakash Chaudhary, Under Secretary from Ministry of Home Affairs

Ms. Sanya Mehta, Ms. Sonali Sharma and Ms. Tejasvi Thakur, Ld. Law Researchers

Mr. Reetesh Singh, Registrar Unlawful Activities (Prevention) Tribunal.

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### **CORAM:**

### **HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

### **NOTIFICATIONS S.O. 4559 (E) DATED 27.09.2022 PUBLISHED IN THE OFFICIAL GAZETTE ON 28.09.2022 AND S.O. 4758 (E) DATED 06.10.2022**

1. In exercise of powers conferred under Section 3(1) and 3(3) of the Unlawful Activities (Prevention), 1967 (UAPA), the Union of India through the Ministry of Home Affairs issued Notification bearing No. S.O.4559(E) dated 27<sup>th</sup> September, 2022, published in the Official Gazette on 28<sup>th</sup> September, 2022, declaring the Popular Front of India (PFI) and its associates or affiliates or fronts including Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women's Front (NWF), Junior Front (JF), Empower India Foundation (EIF) and Rehab Foundation, Kerala (RFK) as "unlawful association" as defined under Section 2(1)(p) of the UAPA.

2. Subsequently, vide Notification No. S.O. 4758(E) dated 06<sup>th</sup> October, 2022, the Central Government in exercise of its powers conferred under Section 5(1) of the UAPA constituted this Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the Popular Front of India and its associates or affiliates or fronts including Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women's Front, Junior Front, Empower India Foundation and Rehab Foundation, Kerala as "unlawful association".

3. The Notification bearing No. S.O.4559 (E) dated 27<sup>th</sup> September, 2022, published in the Official Gazette on 28<sup>th</sup> September, 2022 has delineated the basis on which the said Associations were banned by the Central Government under Section 3(1) and 3(3) of the UAPA. The relevant portion of the same is reproduced as under: -

*"And Whereas, the investigations have established clear linkages between PFI and its associates or affiliates or fronts;*



**And Whereas,** Rehab India Foundation collects funds through PFI members and some of the members of the PFI are also members of Campus Front of India, Empower India Foundation, Rehab Foundation, Kerala, and the activities of Junior Front, All India Imams Council, National Confederation of Human Rights Organization (NCHRO) and National Women's Front are monitored/coordinated by the PFI leaders;

**And Whereas,** the PFI has created the above mentioned associates or affiliates or fronts with objective of enhancing its reach among different sections of the society such as youth, students, women, Imams, lawyers or weaker sections of the society with the sole objective of expanding its membership, influence and fund raising capacity;

**And Whereas,** the above associates or affiliates or fronts have a 'Hub and Spoke' relationship with the PFI acting as the Hub and utilizing the mass outreach and fund raising capacity of its associates or affiliates or fronts for strengthening its capability for unlawful activities and these associates or affiliates or fronts function as 'roots and capillaries' through which the PFI is fed and strengthened;

**And Whereas,** the PFI and its associates or affiliates or fronts operate openly as socio-economic, educational and political organization but, they have been pursuing a secret agenda to radicalize a particular section of the society working towards undermining the concept of democracy and show sheer disrespect towards the constitutional authority and constitutional set up of the country;

**And Whereas,** the PFI and its associates or affiliates or fronts have been indulging in unlawful activities, which are prejudicial to the integrity, sovereignty and security of the country and have the potential of disturbing public peace and communal harmony of the country and supporting militancy in the country;

**And Whereas,** some of the PFI's founding members are the leaders of Students Islamic Movement of India (SIMI) and PFI has linkages with Jamat-ul-Mujahideen Bangladesh (JMB), both of which are proscribed organisations;

**And Whereas,** there had been a number of instances of international linkages of PFI with Global Terrorist Groups like Islamic State of Iraq and Syria (ISIS);

**And Whereas,** the PFI and its associates or affiliates or fronts have been working covertly to increase radicalization of one community by promoting a sense of insecurity in the country, which is substantiated by the fact that the some PFI cadres have joined international terrorist organisations;

**And Whereas,** the Central Government is of the opinion that it is necessary to exercise its powers under sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967, (37 of 1967) (hereinafter referred to as the Act) in view of the above stated reasons, which is substantiated by the following facts; namely,

(i) the PFI is involved in several criminal and terror cases and shows sheer disrespect towards the constitutional authority of the country and with funds and ideological support from outside it has become a major threat to internal security of the country,

(ii) investigations in various cases have revealed that the PFI and its cadres have been repeatedly engaging in violent and subversive acts. Criminal violent acts carried out by PFI include chopping off limb of a college professor, cold blooded killings of persons associated with organisations espousing other faiths, obtaining explosives to target prominent people and places and destruction of public property,

(iii) the PFI cadres have been involved in several terrorist acts and murder of several persons, including Sh. Sanjith (Kerala, November, 2021), Sh. V.Ramalingam, (Tamil Nadu, 2019), Sh. Nandu, (Kerala, 2021), Sh. Abhimanyu (Kerala, 2018), Sh. Bibin (Kerala, 2017), Sh. Sharath (Karnataka, 2017), Sh. R.Rudresh (Karnataka, 2016), Sh. Praveen Pujari (Karnataka, 2016), Sh. Sasi Kumar (Tamil Nadu, 2016) and Sh. Praveen Nettaru (Karnataka, 2022) and the above criminal activities and brutal murders have been carried out by PFI cadres for the sole objective of disturbing public peace and tranquility and creating reign of terror in public mind,

(iv) there had been a number of instances of international linkages of PFI with Global Terrorist Groups and some activists of the PFI have joined Islamic State of Iraq and Syria (ISIS) and participated in terror activities in Syria, Iraq and Afghanistan. Some of these PFI cadres linked to ISIS have been killed in these conflict theaters and some have been arrested by State Police and Central Agencies and also the PFI has linkages with Jamat-ul-Mujahideen Bangladesh (JMB), a proscribed terrorist organization,

(v) the Office bearers and cadres of the PFI along with others are conspiring and raising funds from within India and abroad through the banking channels, and the hawala, donations, etc. as part of a

*well-crafted criminal conspiracy, and then transferring, layering and integrating these funds through multiple accounts to project them as legitimate and eventually using these funds to carry out various criminal, unlawful and terrorist activities in India,*

*(vi) the sources of deposits on behalf of PFI with respect to its several bank accounts were not supported by the financial profiles of the account holders and the activities of PFI were not being carried out as per their declared objectives and therefore, the Income Tax Department cancelled the registration granted to PFI under section 12A or 12AA of the Income Tax Act, 1961 (43 of 1961). The Income Tax Department also cancelled the registration granted to Rehab India Foundation under section 12A or section 12AA of the Income Tax Act, 1961,*

*(vii) the State Governments of Uttar Pradesh, Karnataka and Gujarat have recommended to ban PFI.*

**And Whereas,** *the PFI and its associates or affiliates or fronts have been involved in the violent terrorist activities with an intent to create a reign of terror in the country, thereby endangering the security and public order of the state, and the anti-national activities of PFI disrespect and disregard the constitutional authority and sovereignty of the state and hence an immediate and prompt action is required against the organisation;*

**And Whereas,** *the Central Government is of the opinion that if there is no immediate curb or control of unlawful activities of the PFI and its associates or affiliates or fronts, the PFI and its associates or affiliates or fronts, will use this opportunity to –*

*(i) continue its subversive activities, thereby disturbing public order and undermining the constitutional set up of the country;*

*(ii) encourage and enforce terror based regressive regime;*

*(iii) continue propagating anti-national sentiments and radicalize a particular section of society with the intention to create disaffection against the country;*

*(iv) aggravate activities which are detrimental to the integrity, security and sovereignty of the country;*

**And Whereas,** *the Central Government for the above-mentioned reasons is firmly of the opinion that having regard to the activities of the PFI, it is necessary to declare the PFI and its associates or affiliates or fronts to be unlawful association with immediate effect;*

**Now, Therefore,** *in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the Popular Front of India (PFI) and its associates or affiliates or fronts including Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women's Front, Junior Front, Empower India Foundation and Rehab Foundation, Kerala as an "unlawful association";*

**And Whereas,** *the Central Government, having regard to the above circumstances, is of firm opinion that it is necessary to declare the PFI and its associates or affiliates or fronts as an unlawful association with immediate effect, and accordingly, in exercise of the powers conferred by the proviso to sub-section (3) of section 3 of the said Act, the Central Government hereby directs that this notification shall, subject to any order that may be made under section 4 of the said Act, have effect for a period of five years from the date of its publication in the Official Gazette."*

#### **REFERENCE TO THE TRIBUNAL AND THE BACKGROUND NOTE**

4. Formal Reference was made to this Tribunal by the Central Government under Section 4(1) of the UAPA read with Rule 5(i) and (ii) of the Unlawful Activities (Prevention) Rules 1968 (UAP Rules) vide letter bearing no.14017 / 10/2022-NI-MFO dated 26<sup>th</sup> October, 2022. The Reference was accompanied with a brief Background Note on the Popular Front of India (PFI) along with its associatges/affiliates/fronts and its activities with five Annexures.

5. The 'Brief Background Note' forwarded along with the Reference to this Tribunal contains a summary on the PFI along with its associatges/affiliates/fronts and its activities. It states that PFI was formed in 2006 by the core leadership of the erstwhile Students Islamic Movement of India (SIMI) which is a banned terrorist organization. It is stated that the PFI was formed by merging three organizations which have extremist ideologies i.e. National Democratic Front (NDF) (Kerala), ManithaNeethiPasarai (MNP) (Tamil Nadu) and Karnataka Forum for Dignity (KFD) (Karnataka). It is stated the several members of the PFI including its top leadership were active members of SIMI and is operationally defined by SIMI's ideology of radical Islam. PFI is stated to be registered under the Societies Registration Act, 1860 vide Registration No. S/226/Distt.South/2010, New Delhi and has presence all over the country. PFI recruits its cadre with the intended objective to disrupt the syncretic culture of the country through fear and hate.

6. The background note states that the PFI operates as a socio-economic, educational and political organisation but has been pursuing a secret agenda to radicalize a particular section of society to propagate violence and disregard the rule of law and exhibits disrespect towards the constitutional authority and constitutional set up of the country. It is stated that the ideology of PFI aims at and works towards undermining the concepts of democracy and establishing a sectarian state. It advocates extremist ideology and calls for disrupting, disclaiming all the lawful actions of democratically elected Government and attempts to bring into hatred or contempt or incites or attempts to incite disaffection against Government established by law. It is stated that the PFI and its cadres create false narrative justifying its wrongful ideas and thoughts, spread false propaganda against government programmes and instills mistrust in the minds of youth to raise arms and revolt against the democratic government. It is stated that in order to mask its extremist ideology based agenda, the PFI has set up several associates or affiliates or fronts including the following:

- (i) Rehab India Foundation (RIF)
- (ii) Campus Front of India (CFI)
- (iii) All India Imams Council (AIIC)
- (iv) National Confederation of Human Rights Organization (NCHRO)
- (v) National Women's Front
- (vi) Junior Front
- (vii) Empower India Foundation
- (viii) Rehab Foundation, Kerala

7. The background note further states that there have been a number of instances of linkages of the PFI and Global Terrorist Groups and some of its activists/members have joined Islamic State of Iraq and Syria (ISIS) to fight for their cause in conflict theatres of Syria, Iraq and Afghanistan and also to gain operational experience in guerilla warfare and terrorist activities for furtherance of their agenda. It is stated that they are trying to integrate their actions with international terror organizations and intend to establish their presence in India by means of disruptive activities resulting in large scale violence and mass destruction of life and property. It is stated that there is information that PFI has linkages with banned terrorist organization Jamat-ul-Mujahideen Bangladesh (JMB).

8. The background note further states that investigations establish linkages between the PFI and its associates or affiliates or fronts. Rehab India Foundation collects funds through PFI members. Some of the members of the PFI are members of Campus Front of India, Empower India Foundation and Rehab Foundation, Kerala. PFI leaders monitor and coordinate activities of Junior Front, All India Imams Council, National Confederation of Human Rights Organization (NCHRO) and National Women's Front. PFI has created the said organizations among different sections of the society such as youth, students, women, lawyers and weaker sections of the society to camouflage its hidden objective. It is stated that the front outfits of the PFI have a 'Hub & Spoke' relationship, with the PFI acting as the Hub and utilizing the mass outreach and fund raising capacity of front outfits for strengthening its capability for its subversive and anti-national agenda. These front organisations are functioning as 'roots and capillaries' through which the PFI is fed and strengthened.

9. The background note states that investigation by the National Investigation Agency (NIA) has revealed that the PFI and its cadres have time and again been engaging in violent, subversive and terrorist acts such as chopping off the hand of a college professor for purported blasphemy, cold blooded killings of persons associated with organizations espousing other faiths, collection of explosives to target prominent people and places and destruction of public property have a demonstrative effect of striking fear in the people. It is stated that the PFI cadres had been involved in brutal killings of a number of members of other organisations including Sh. Sasi Kumar (Tamil Nadu, 2016), Sh. Praveen Pujari (Karnataka, 2016), Sh. R. Rudresh (Karnataka, 2016), Sh. Bibin (Kerala, 2017), Sh. Sharath (Karnataka, 2017), Sh. Abhimanyu (Kerala, 2018), Sh. V. Ramalingam (Tamil Nadu, 2019), Sh. Sanjith (Kerala, November, 2021), Sh. Nandu (Kerala, 2021), Sh. Ranjith Srinivasan (Kerala, December, 2021), Sh. K. Srinivasan (Kerala, April, 2022) and Sh. Praveen Nettaru (Karnataka, 2022).

10. The background note states that reports from the Enforcement Directorate (ED) indicate that the office bearers, members and cadres of PFI along with others are conspiring and raising & collecting funds from within India and abroad through banking channels, Hawala, donations etc. as part of a well-crafted criminal conspiracy by transferring, layering and integrating these funds through multiple accounts to project them as legitimate and using these funds to carry out various unlawful and terrorist activities. ED reports indicate that though PFI claims that it does not receive any foreign funding, it has a deep network in Gulf countries where its cadres are present. PFI has been collecting huge amounts of funds abroad through its members/activists with fixed targets for foreign collection of funds. These funds are not reflected in the bank accounts of PFI. Statutory compliance for collection of funds abroad and remittance to India have not been done by PFI/CFI/RIF and their related organisations as they are not registered under Foreign Contribution (Regulation) Act, 2010. They remitted funds through hawala / underground channels and

through remittances sent to the accounts of members/activists/office-bearers (and to accounts of their friends / relatives /associates) of PFI/CFI and other related organisations. These foreign funds are illegally transferred to India and used for criminal and unlawful activities.

11. The background note further states that the ED reports indicate that PFI resorted to bogus cash donations and bank transfers to project suspicious cash as legitimate credits. During investigation, details of cash donations for the year 2018-19 were submitted by PFI and their scrutiny revealed that complete details were not mentioned in respect of numerous donations making it impossible to locate the donors to verify the authenticity of their contributions. Several individuals in their statements recorded u/s 50 of the Prevention of Money Laundering Act, 2002 (PMLA) categorically denied any association with PFI or making any donation to PFI. investigation with respect to certain PFI bank accounts revealed that immediately prior to several bank transfers, equivalent amounts of cash were deposited in the bank accounts of the alleged sympathizers to project the funds received in PFI's accounts as legitimate transfers. The Income Tax Department, in March, 2021, has also cancelled the registration granted to PFI and RIF u/s 12A/12AA of the IT Act, 1961 as it found that the sources of deposits on behalf of the PFI/RIF with respect to various bank accounts were not supported by the financial profiles of the account holders. The Uttar Pradesh STF had arrested the National Coordinator of the PFI's Physical Education Division, who was carrying explosives with detonators. He had received funds from PFI for various anti-national activities, including training of PFI cadres in using arms and explosives to carry out terrorist acts.

12. The background note further states that there are a large number of cases against the PFI members *inter-alia* relating to serious offences of terrorism, violent extremism, promoting enmity between different groups on grounds of religion etc, which is prejudicial to national-integration, disrupting the sovereignty and integrity of India. Thus, in these facts and circumstances, the Central Government has proscribed the said organizations as unlawful association vide Notification No. S.O. 4559 (E), dated 27<sup>th</sup> September, 2022, published in the Gazette of India, Extraordinary on 28<sup>th</sup> September, 2022.

13. The background note lastly states that the number of persons arrested, cases registered, persons absconding, number of persons convicted /acquitted, number of cases pending trial, number of cases under investigation, etc., may vary from actual numbers in each category. These exact figures will be known from the affidavits when filed by the officers of the State Governments, NIA and ED before the Unlawful Activities (Prevention) Tribunal, in the matter.

#### **PRELIMINARY HEARING OF THE TRIBUNAL**

14. The Tribunal held a preliminary hearing on 31.10.2022 immediately after receipt of reference on 26.10.2022 vide which notice under Section 4(2) of the UAPA was issued to the Popular Front of India (PFI) and its associates or affiliates or fronts including Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women's Front (NWF), Junior Front (JF), Empower India Foundation (EIF) and Rehab Foundation, Kerala (RFK) to show cause, within 30 days from the date of service of notice, as to why it / they be not declared as "unlawful association". Direction was issued to the Central Government to serve the notices on the PFI and its associates or affiliates or fronts in the following manner:

- (I) *By affixing a copy of the notification to some conspicuous part of the office(s), if any, of the Association;*
- (II) *By serving a copy of the notification, wherever possible, on the Principal Office-bearers, if any, of the Association;*
- (III) *The notice be also served by registered post/ Speed post / courier / email (if available);*
- (IV) *By proclaiming by beat of drums or by means of loudspeakers, the contents of the notification, in the area in which the activities of the Association are ordinarily carried on;*
- (V) *By pasting the notification on the Notice Board of the office of the Deputy Commissioners at the Headquarters of each of the Districts in the States, where the activities of the Association are undertaken; and*
- (VI) *By publication in two National Newspapers in English and in two vernacular newspapers of the States in India.*

15. The Central Government was called upon to ensure service of notices within two weeks with further direction to file Affidavit of Service in this regard. In compliance of the said directions, Affidavits of Service of notices were filed by the Central Government and the State Governments as per which all the banned organizations had been duly served. The erstwhile office bearers / members of all the Associations mentioned in Notification bearing No. S.O.4559 (E) dated 27<sup>th</sup> September, 2022, except Junior Front, entered into appearance through their respective Ld. Counsels.

**OBJECTIONS / REPLY / WRITTEN STATEMENTS FILED BY THE RESPECTIVE ORGANIZATIONS**

16. Objections / Replies / Written Statements were filed by the erstwhile office bearers / members of Popular Front of India (PFI), Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women's Front (NWF), Empower India Foundation (EIF) and Rehab Foundation, Kerala (RFK). Individual responses to the same were filed by the Central Govt.

17. Before proceeding to refer to the Objections / Replies / Written Statements of the opposite parties, it may be noted that the Central Govt had raised serious objection to the same being taken on record on the ground that the same were not filed within 30 days of service of the notices issued by the Tribunal and had been filed at a very belated stage i.e. at the stage or after leading of evidence by the Central Govt.

18. Submissions had been made by the Ld. Counsels for the organizations / opposite parties that upon coming into force of the ban i.e. 28.09.2022, all their activities came to a standstill. Their offices had been sealed and several office bearers were incarcerated. It was further submitted that the organizations had not been supplied the Background Note and Annexures and only when the same were made available by this Tribunal could they frame their responses. It was submitted that in such circumstances, it was not possible for the organizations to file their Objections / Replies / Written Statements within 30 days of service of the notices. Sh. S. V. Raju, Learned ASG has vehemently opposed the taking of these objections on record having been filed much beyond the time prescribed by the Statute.

19. At this stage the dates of filing of Objections / Replies / Written Statements by the parties may be noted: -

SR. NO.	ASSOCIATION	DATE OF FILING
1.	Rehab India Foundation	19.01.2023
2.	Campus Front of India	29.01.2023
3.	All India Imams Council	29.01.2023
4.	Empower India Foundation	03.02.2023
5.	Rehab Foundation Kerala	13.02.2023
6.	National Women's Front	02.03.2023
7.	National Confederation of Human Rights Organizations	03.03.2023
8.	Popular Front of India	04.03.2023

20. By proceeding dated 31.10.2022, this Tribunal had issued notices on the Reference to the concerned organizations and had fixed the matter for 08.12.2022. On 02.12.2022 IA No.1 had been filed by RIF praying for supply of relied upon documents. On 08.12.2022, Ld. Counsels had entered into appearance on behalf of all the above eight organizations. In between, applications were also filed by PFI and NCHRO for supply of relied upon documents. This Tribunal by order dated 08.12.2022 had directed the Central Govt to supply copies of the Background Note to the Ld. Counsels for the parties which then stood supplied. Similar applications were thereafter filed by AIIC, EIF and RFK. These applications were taken up on 14.12.2022 and during the course of hearing on 14.12.2022 Sh. S.V. Raju, Ld. ASG stated that they will supply all the documents filed by the Central Govt before this Tribunal with the Reference, i.e. Background Note along with five Annexures. The same were supplied on 14/15.12.2022. Matter was then fixed for recording of evidence on behalf of the Central Govt w.e.f. 19.12.2022.

21. Proceedings of this Tribunal are time bound. Reference may be placed on section 4(2) of the UAPA which provides that upon receipt of the Reference, the Tribunal shall call upon the association by notice in writing to show cause, within 30 days from the date of service of such notice, why the association should not be declared unlawful. Section 4(3) provides that after considering the cause, if any shown by the association, the Tribunal shall hold an enquiry and then decide within six months from the date of issuance of the notification whether or not there is sufficient cause for declaring the association to be unlawful.

22. As per record, all the organizations had entered into appearance on 08.12.2022. Documents filed with the Reference stood supplied to the opposite parties by 15.12.2022. Even from this date i.e. 15.12.2022, none of the Replies/ Objections/ Written Statements had been filed within 30 days thereof. Strictly speaking, the Replies/ Objections/ Written Statements were not filed by the associations within the time frame provided under section 4 of the UAPA. In fact some of them were filed after conclusion of evidence on behalf of the Central Govt.

23. It is pertinent to mention that the objections are to be filed within 30 days which is the outer limit and learned ASG has rightly taken an objection that since these objections have been filed much beyond the period of 30 days the same should not be considered. It is pertinent to mention here that nothing stopped them from filing reply in



prescribed period, on whatever material was available to them. This Tribunal considers that no fault can be found with the objection of the learned ASG. However, still in the interest of the justice and only to understand the perspective of the Banned Organisation, this Tribunal has briefly gone through the objections, though filed much beyond the limitations.

#### **OBJECTIONS / REPLY / WRITTEN STATEMENTS OF PFI**

24. The PFI in its Objections / Replies / Written Statements filed through OMA Salam, erstwhile Chairman, Anis Ahmad, erstwhile General Secretary and E.M. Abdul Rahiman, erstwhile Vice Chairman of the PFI has submitted that the said office bearers, being in judicial custody, have not been served with the copy of the notice dated 31.10.2022 of this Tribunal and of the Reference and that they have entered into appearance before this Tribunal in response to the public notice. They could not file their response prior to evidence being led before the Tribunal as they were in judicial custody. It has been submitted that the notification dated 27.09.2022 is vague and contains baseless allegations. It does not contain any valid ground in terms of section 3 of the UAPA and violates their rights guaranteed under Articles 14, 19 and 21 of the Constitution of India. The contents of the Background Note does not disclose any material or case to declare the PFI as an unlawful association. It has been submitted that the PFI has worked in a transparent and lawful manner for its objectives with full faith in the Constitution of India and rule of law. Banning of PFI was an abuse of the powers of the Central Govt under section 3 of the UAPA to silence and unlawfully suppress and persecute voices.

25. It has been submitted that the grounds contained in the notification dated 27.09.2022 and Background Note have been deliberately kept vague to make it impossible for framing a proper response and to enable the Central Govt to aid and improve upon its case during the proceedings. The same make refers to cases as old as 2004 purportedly registered against members of the PFI without the names of the accused and current status of the cases. The notice issued by the Registrar of the Tribunal does not comply with section 4(2) of the UAPA as there is no disclosure of the basis of the accused. Reference is made to the judgment of the Supreme Court in the case of **Mohd. Jafar Vs. Union of India 1994 SUPP (2) SCC1**. The Background Note is undated, unsigned and not supported with an affidavit and does not disclose the provision of law under which it has been sought to be placed on the record. It does not constitute pleadings, nor does it comply with Rule 5(ii) of the UAP Rules. No documents have been placed before the Tribunal along with notification and Background Note indicating that the Central Govt does not have material particulars to form a legally valid opinion under section 3 (1) of the UAPA. It is alternatively submitted that the Central Govt has withheld material facts and records from the Tribunal. The Central Govt cannot be permitted to surprise the respondents with documents during the course of the proceedings to improve upon its case.

26. It has been submitted that the PFI cannot be banned merely because some members / former members of the PFI were found to be involved in illegal or criminal activities. Their alleged activities cannot be attributed to the associations as a whole. Eight organizations along with PFI are the subject matter of the notification dated 27.09.2022 as associates or affiliates or fronts of the PFI which is illegal as there is no power to declare more than one association as unlawful under section 3 of the UAPA. There is no material to show that PFI had created any other organization or that it uses them to increase its outreach or fund raising capacity. These organizations are independent from PFI. The notification dated 27.09.2022 and the Background Note contained vague allegations of linkages of PFI with SIMI, JMB and ISIS which are denied. PFI has been organizing public campaigns to develop knowledge, skills and attitudes to help people build resilience against ISIS propaganda. It has been submitted that in the Kanakamala ISIS case (Sessions Case No.2/2017/NIA and RC No.5/2016/NIA/KOC), the NIA had shared digital evidence against the accused with the defence lawyer which showed that the accused had plotted conspiracies against PFI leaders as they were against ISIS. The PFI had expressed anguish and concern against killings taking place every day in the name of Islamic State in its National General Assembly held on 24.01.2016.

27. It has been submitted that on 20.02.2018 the then BJP Govt in Jharkhand had notified a ban on PFI in Jharkhand which was quashed by the High Court of Jharkhand vide verdict dated 27.08.2018 in the case of Abdul Wadud Vs The State of Jharkhand, W.P (Cr) No.94 of 2018 holding that the Govt had not provided appropriate reasons for declaring PFI as unlawful. It has been submitted that PFI was officially launched on 17.02.2007 at Empower India Conference in Bengaluru. Details of the history of PFI have been given in the Reply / Objections of PFI. References have been made to several workshops and meetings. Objectives of the PFI have been stated in detail including promotion of national integration, communal amity, social harmony and uphold the democratic setup, secular order and rule of law in the country. Erstwhile leadership of the PFI includes OMA Salam - Chairman, E.M. Abdul Rahiman - Vice Chairman, Anis Ahmed - National General Secretary, Nasarudheen Elamaram - National Secretary, Afsar Pasha - National Secretary and Mohammed Shakit - National Secretary. Reference has been made to the activities of the PFI under the heads - Good Education is the Foundation for a Better Future, Humanity in Calamity, Popular Front Volunteers and the Covid-19 Pandemic, Healthy People, Healthy Nation, Resist the Lynching of our Nation, Struggle for Indian Constitutional values, Struggle Against Fascism. The PFI has also given a parawise reply to the Background Note.



**OBJECTIONS / REPLY / WRITTEN STATEMENTS OF REHAB INDIA FOUNDATION**

28. Rehab India Foundation (RIF) has denied the contents of the Background Note. It has raised issue of non supply of all relied upon documents including but not limited to opinion / grounds and stated that there has been denial of principles of natural justice. There is nothing on record to show that RIF has indulged in any unlawful activity and that banning of RIF was an abuse of the process of law. It has no link with PFI or CFI. Funds amounting to Rs.50,14,214/- referred to in the Background Note were untainted donations received by RIF without any link to criminal activity. Statement made by K.A. Rauf Sherif under section 50 of the PMLA while being in the custody of ED in ECIR /02/HIU/2018 is inadmissible in evidence as held by the Supreme Court in the case of Vijay Madanlal Choudhary V. UOI, 2022 SCC Online SC 929. RIF has given a background of its constitution w.e.f. 17.03.2008 by funds given by Aboobacker Erappungal S/o Hassan retired teacher residing in Kozhikode, Kerala (being the settler of the trust). Several prominent persons have been the trustees of RIF. Reference has been made to the objectives of formation of RIF including establish promotion, maintenance, assistance, and / or aid to or help in the setting up and/ or maintaining and / or running schools and other institutions orphanages, widow homes, lunatic asylums, poor houses or other establishments for relief and / or help to the poor, old and infirm people and / or destitute etc. Exemption was granted under section 80 G (VI) of the Income Tax Act on 30.12.2010 to RIF which has since then been filing its Income Tax Returns. However on 08.12.2018 the said exemption was revoked by the Income Tax Department which is under challenge before the High Court of Delhi. The bank accounts of RIF have been frozen / attached by ED due to which it had to sustain all its programmes causing unemployment to its employees. RIF has provided educational support to numerous students in schools and colleges. It had formed 207 self help groups of 2300 women with facilitation of loan distribution from Govt authorities. It has contributed during emergencies such as floods, pandemic of covid-19 etc. Annual reports of RIF have been enclosed. It has tied up with Pratham Education Foundation, a renowned NGO to provide education support in slums.

29. It has been submitted that office bearers of RIF have appeared regularly before Investigating Authorities. It has been banned by the Central Govt on the sole basis that two of its donors were from PFI although RIF has hundreds of donors and it is impossible for RIF to find out the source of each donation. There is no material on the record to show that RIF was knowingly involved with two alleged members / donors belonging to PFI namely Safeeqe Payeth and Abdul Razak whose donations have been admitted by the RIF. The RIF or its members or office bearers are not named as accused in any of the FIRs relied upon by the Central Govt. Funds received from Safeeqe Payeth and Abdul Razak were used for overall betterment of the society. No reason has been put forth in the notification or in the Background Note for banning RIF. Even though specific allegations have been made against PFI, no role is assigned to RIF. The notification has been issued mechanically against RIF.

**OBJECTIONS / REPLY / WRITTEN STATEMENTS OF CAMPUS FRONT OF INDIA**

30. The CFI in its objections has stated that it has no connection with PFI and declaration of CFI as an unlawful association is illegal. Under section 3 of the UAPA, not more than one association can be banned in a single notification. There was no material available with the Central Govt prior to issuance of the notification. Material evidence relied upon by the Central Govt in the form of statements of witnesses and accused persons were inadmissible in evidence. The cases in which those statements came to be recorded are yet pending trial and thus cannot be considered in the proceedings of the Tribunal which are similar in nature. The Central Govt has produced as witnesses investigating officers of cases which are not mentioned in the Background Note or its Annexures. It cannot be permitted to lead evidence beyond its pleadings. The person who recorded such statements cannot prove the contents of the same before this Tribunal. Reference has been made to the judgment of the Supreme Court in the case of Jamaat-e-Islami Hind Vs. UOI. The CFI is a student organization carrying out different programmes amongst students to ensure their better future. CFI is a law abiding association. Only one incident is mentioned in the Background Note regarding the registration of a case by the ED at Lucknow which is a fabricated case to deflect public attention from the inability of the Govt to apprehend the offenders of the Hathras rape case. The 'grounds' stated in the notification and Background Note are not valid or justiciable as they lack material particulars. Notice issued by the Registrar does not fulfill the requirements of section 4 (2) of the UAPA as there is no disclosure of the basis of the action as required by the statute. The Central Govt has failed to disclose the reasons for invoking its powers under section 3 of the UAPA.

31. It has been submitted that the CFI was formed in Delhi on 07.11.2009 in the National Students Convention held at India International Centre New Delhi where more than 200 students from JNU, DU, AMU, etc participated. The aims and objects of the CFI include working for the welfare and progress of the students, preparing them to take up the roles in nation building, promote peace and harmony, protecting the secular constitutional character of the country etc. As per constitution of the CFI, it is not an affiliate or front of any other organization. Membership of CFI is open for students from the age of 13 and in 2021, there were four lac members of the CFI throughout the country. Students from all religious group and both sexes could be members of CFI subject to the age group. Some of the erstwhile leaders of the CFI were Subhojit in JNU, Praveena in Wayanad, Ann Maria, Mananthavadi, Abdu Rahiman, Anandu Das and Nitheesh Babu in CMS College Kottayam.

32. It has been submitted that the CFI joins hands with any progressive organization for wider benefits of students and the country if they are not against constitutional and secular ethos of the country. Reference has been made to participation of several persons in the programmes of CFI. It has been submitted that participation by persons in the programmes of CFI would not mean that the CFI is in total agreement with their ideology and actions. The CFI cannot be targeted in the name of persons who are associated with or talked in CFI programmes. The CFI motivates members to participate in Campus Elections. It takes part in activities for promoting higher education amongst rural students, submitting suggestions to the Govt, taking part in voluntary activities during Covid out break and floods etc. It provides career guidance to students and conducts programmes on this account. It runs summer schools in Assam to help children progress in their studies. CFI assists students to access various education scheme of the Govt. It organized a campaign for right to education across India. It confers Ekalavya award to students from lower rungs of the society as recognition of their devotion to acquire knowledge and skill. It engaged in the debate on New Education Policy 2019 and made policy suggestions and amendments to the NEP 2016. It instills higher social and political values in students and teaches women to uphold their dignity. It has organized blood donations camp and has also conducted anti-ragging campaign in 2009. It works against substance abuse and expresses solidarity with people protest across the country, details of which are mentioned in the objections. It has expressed solidarity riots victims and worked towards environmental conservation. It has conducted seminars on National and Regional Development and political issues. The CFI has denied indulging in any unlawful activities and has given a parawise reply to the grounds in the notification and Background Notes. It has denied that K.A. Rauf Sherif is associated with the CFI.

#### **OBJECTIONS / REPLY / WRITTEN STATEMENTS OF ALL INDIA IMAMS COUNCIL**

33. The legal objections raised in the reply of AIIC are similar if not identical to those raised in the reply of CFI. The same are therefore not being referred to for the sake of brevity and to avoid repetitiveness. It has been submitted that AIIC encourages Imams and leaders to study for University degree and emphasize proper Islamic education. It has been submitted that extremism does not know any religious or national boundaries. AIIC had opposed the emergence of ISIS. AIIC respects the constitution and rule of law. There has been search of religious motivated violence, discrimination and anti Muslim rhetoric in the country which contributes to an environment in which Muslims are increasingly discriminated and attacked for their faith. The notification dated 27.09.2022 is biased and baseless. The AIIC has been filing income tax returns through a Chartered Accountant explaining their sources of funds in a lawful manner. The AIIC is not an associated or affiliate of PFI. It is a law abiding platform. It has been submitted that only two cases have been relied upon by the Central Govt to justify its ban. It has been submitted that the meeting which took place was peaceful and did not violate the law. The Background Note and Annexures are totally vague.

34. It has been submitted that the AIIC was founded in the year 2012 and registered under the Societies Registration Act. It is a common platform of Religious Scholars, Prayer Leaders and Religious Teachers in India. It focuses on Islam religion, Islamic interpretations that guide ethical and moral life rather than political aspects. The AIIC has supported several mediation initiatives to settle people's grievances whenever authorities asked to intervene. It has participated in many interfaith dialogues to remove prejudices and misunderstandings. The AIIC has also given a parawise reply to the grounds in the notification and in the Background Note.

#### **OBJECTIONS / REPLY / WRITTEN STATEMENTS OF NATIONAL CONFEDERATION OF HUMAN RIGHTS ORGANIZATION**

35. The NCHRO had contended that it is a non profit non political umbrella body for various human rights and civil rights organizations in India. It has been providing legal assistance to different classes of the society for three decades and working to promote rule of law and protection of human rights. Before the ban, office bearers of the NCHRO were Prof. A. Marx, Adv. Aradhana Bhargava, Reny Ayline. Voluntary membership of NCHRO was available to all people in India prior to its ban. CHRO was the erstwhile form of NCHRO which was founded by Human Rights activists including Late Sh. Mukundan C. Menon, Sh. K. Panoor etc. NCHRO has detailed various seminars in which it has participated or has conducted. It has been submitted that the NCHRO established the Mukundan C. Menon Human Rights Award in the year 2005 which is given every year. Names of some of the recipients are mentioned. The NCHRO has filed several complaints and petitions in the National Human Rights Commission.

36. It has been submitted that no specific reason has been assigned by the Central Govt to impose a ban on NCHRO. No specific role is assigned and the notification is patently arbitrary and suffers from complete non application of mind. It has been submitted that the NCHRO is an unregistered organization but the notification mentions a Registration bearing no. S-3256 dated 12.09.2010 which has not been assigned to NCHRO till date. Multiple associations cannot be the subject matter of a single notification under section 3(1) of the UAPA. The Central Govt has failed to explain the reasons for declaring NCHRO as an unlawful association on immediate basis. No criminal antecedents or information pertaining to any cases pending against NCHRO has been provided in the notification or in the Background Note. Satisfaction arrived at for declaring the NCHRO as an unlawful organization is completely baseless, arbitrary and in gross violation of the Constitution of India.

**OBJECTIONS / REPLY / WRITTEN STATEMENTS OF NATIONAL WOMEN'S FRONT**

37. The NWF has claimed that the notification and the Background Note suffers from non application of mind as no specific allegation has been made of it being involved in unlawful activity. The only justification contained in the notification is that it is an associate or front of the PFI which is denied. It is settled law that the initial burden of proving a fact lies on the party which asserts it. There is no material to prove the allegations against NWF. The Central Govt has not been able to demonstrate on the basis of evidence led that the NWF is involved in any unlawful activity or that it instructed or authorized its members to engage in any unlawful activity. No specific reason has been assigned by the Central Govt to impose an immediate ban on the NWF. As the nature of relief sought is injunctive and prohibitory, higher burden was placed on the Central Govt to disclose material to support such a sweeping action against NWF and eight other associations. Principles of natural justice has been violated in the present proceedings due to which the same are vitiated. There is non compliance of section 3 (3) of the UAPA as none of the erstwhile office bearers or members were served with copy of the notification or notice of the Tribunal. The NWF proactively appointed a counsel to appear before the Tribunal on the first date of hearing. It had filed an application regarding non supply of documents. The Govt of India has relied on extraneous material in an attempt to prove existence of criminal proceedings which were not expressly mentioned in the Background Note. The scope of the Tribunal must be examined in the light of well settled principles of judicial review over administrative action. Despite direction of the Tribunal to supply copies of evidence affidavits three days in advance, the Central Govt repeatedly supplied the same at the last minute. Vernacular documents were provided without translated copies. Due to the same the NWF was unable to prepare adequate defence. Documents were placed before the Tribunal in sealed cover despite failing to plead non disclosure of material in the notification or Background Note.

38. It has been submitted that the NWF is a lawfully registered society under the Societies Registration Act 1860. The aims and objectives of the NWF as per its Memorandum of Association and Constitution include striving for the uplift of the women folk, educating people about the social problems, protecting the rights of women, working for intellectual and spiritual development of women, etc. Qualifications for membership of NWF are to be an Indian citizen to believe in God and uphold moral values, to keep away from all partialities and communal feelings, to have interest in the problems of women and readiness to work for solving their problems, to be service minded without any worldly interest. The NWF has regularly filed income tax returns and is funded on the basis of organic community donations and member subscriptions.

39. It has been submitted that the activities of the NWF are noble, legal and in adherence to the spirit of the Constitution of India such as relief works, food kit distribution, leadership, International Women's Day, International Day for Prevention of Child Abuse, Covid time relief works and awareness programs.

**OBJECTIONS / REPLY / WRITTEN STATEMENTS OF REHAB FOUNDATION KERALA**

40. The RFK denies all the allegations made in the notification and in the Background Note. It has denied that it is an associate or front of the PFI. It has denied being involved in any unlawful activity. It has been submitted that the notification issued by the Central Govt is arbitrary, illegal, unconstitutional and therefore unsustainable. It has been issued with malafide intention. It has been submitted that the Central Govt formed by the BJP is averse to the lawful and genuine interests and upliftment of the minority community namely Muslims. It has been submitted that the RFK was established in the year 1990 by Mr. K.N. Sivasankaran who was giving special education to his disabled daughter. Need arose to provide similar education for two other such children in the locality and thus in order to start an institution for teaching such children, a camp was organized at Manjeri in Malapuram District where about 300 disabled children participated. A trust was formed namely Rehab Foundation. It was registered on 04.12.1991 under the Societies Registration Act. Mr. K.N. Sivasankaran and Alavi Ummathoor were the President and the Secretary of the foundation. Two schools were started under the foundation namely Good Hope School for mentally handicapped and Good Hope School for hearing impaired.

41. It has been submitted that about 479 children have studied in the schools and developed their skills. The children have participated in Special Olympics, Sports and Special School Cultural Fest. Details of activities of the RFK has mentioned in the objections. It has been submitted that Ms. Lovely Thomas is the Principal who has looked after the schools for the last 31 years. Most of the children admitted in the schools are from deprived and lowest strata of the society. The Govt has sanctioned FCRA registration in 1995 to RFK which has complied with its norms. In 2006-2007, The Ministry of Social Justice and Empowerment, Govt of India has granted Deendayal Divyagnjan Rehabilitation Scheme to Good Hope School for Mentally challenged. The RFK is the first institution which obtained National Trust Registration in Malppuram District. The State Govt has occasionally granted special package for special schools including the institution. During covid-19 the RFK distributed PP kits to needy people. The banning of RFK has badly effected the welfare and wellbeing of disabled children. Grant as aid allotted for the relevant period could not be released to the RFK due to blockage of accounts. It is prayed that the notification be not confirmed by the Tribunal.

**OBJECTIONS / REPLY / WRITTEN STATEMENTS OF EMPOWER INDIA FOUNDATION**

42. The legal objections of EIF are similar to those as raised by RFK and the same are not being repeated herein for the sake of brevity and to avoid repetitiveness. The EIF has denied that it is associated with the PFI or that it has indulged in any unlawful activities. No office bearers or members of EIF is involved in unlawful activities. It has been submitted that EIF was registered as a charitable trust in 2016 at Bengaluru. It aims towards the empowerment of the socially backward and marginalized sections in the Indian Society, especially Muslims. The empowerment concept of EIF is inclusive of all backward and marginalized groups irrespective of their religion, caste, creed, gender, region or language. Reference has been made to the background and the activities of the EIF. It has been submitted that the foundation was registered as a trust with EM Abdul Rahiman as its Chairman in 2016. It has been submitted that EIF started contemplating ways for upliftment of the Muslim Community which is unfortunately the most backward and marginalized section in India due to several adverse factors. During 2014-2016 EIF conducted country wide intellectual debates and seminars which resulted in planning of empowerment project to raise the status of backward and marginalized communities especially Muslims through a project named Project India 2047. It prepared a comprehensive document analyzing pre and post independence situation in the country with suggestions and solutions. The document is named 'India-2047: Empowering the People'. It uses the official data published by the Union Govt, and those data used in the Sachar Committee Report. The project has 11 focus areas including governance, economy, education, health, media, women, children and youth etc. Goal for each focus area has been set. First edition of the document was released in 2016 and the second edition was released in 2017. There is a supplementary edition also. Details of initial Advisory Board of EIF, reconstituted Advisory Board and Board of Trustees of EIF have been given in the objections. It has been submitted that EIF is not a body that gets involved in the implementation of the projects detailed in the 'India-2047: Empowering the People'. It only provides conceptual, intellectual and motivational support as permitted by the Constitution of India. Manner of working of EIF has been explained in the form of Chapters and Divisions. It has been submitted that the ban on EIF is unjustified.

**RECORDING OF EVIDENCE BY THE TRIBUNAL**

43. Recording of evidence before the Tribunal commenced on 19.12.2022 at Chennai. Initially evidence was led by the Central Govt which examined as many as 100 witnesses on its behalf. Evidence of the Central Govt was closed on 24.02.2023 at Delhi. The Tribunal had held its sitting at Chennai from 19.12.2022 to 21.12.2022 and 22.1.2023 and 23.01.2023, at Lucknow from 10.01.2023 to 12.01.2023 at Bangalore from 28.01.2023 to 30.01.2023 and at Mumbai from 15.02.2023 to 19.02.2023. Remaining proceedings have been held in Delhi on 31.10.2022, 02.12.2022, 08.12.2022, 14.12.2022, 04.01.2023, 05.01.2023, 17.01.2023 to 20.01.2023, 25.01.2023, 03.02.2023 to 08.02.2023, 13.02.2023, 21.02.2023 to 24.02.2023, 01.03.2023, 02.03.2023, 06.03.2023 and 07.03.2023, 10.03.2023, 13.03.2023 and 14.03.2023. It is pertinent to mention here that the Tribunal conducted its hearing on 44 days which included holidays, Saturdays and Sundays. Here, the appreciation must be recorded of learned ASG and his associates, the learned counsels for the Banned Organisations that they rendered full cooperation and even attended the hearings which sometime continued even till 9.30 p.m. in the night.

44. The respondents were given full opportunity to lead their evidence and since they sought only two days, therefore evidence was recorded on behalf of the respondents / associations at Delhi on 01.03.2023 and 02.03.2023. RW-1 is Mr. Lambert CD Solomom, erstwhile office bearer of NCHRO, RW-2 is Mr. Mohammad Faisal Charath erstwhile General Secretary of All India Imams Council, RW-3 is Mr. Abdul Nasar T erstwhile National Secretary of Campus Front of India (CFI), RW-4 is Mr. A. Mohamed Yusuff who is an Advocate by profession and an office bearer of the PFI, RW-5 is Mr. O.M.A. Salam who is the erstwhile Chairman cum Member of the PFI, RW-6 is Mr. Anis Ahmed is an erstwhile office bearer of the PFI, RW-7 is Ms. Shameena former member and District President Kannur of National Women's Front, RW-8 is Mr. Shareef Naduthody former President of Rehab Foundation Kerala and RW-9 is Mr. Mohammad Raphy PP the former Chairman of Empower India Foundation. Respondent evidence was closed on 02.03.2023.

45. Before proceeding further, the Tribunal would like to strongly reject certain averments made by some of the Banned Organisations regarding non supplying of the copies, late supply of affidavits etc. The Tribunal strongly asserts that at every stage from beginning to end, the Tribunal ensured that all the documents available with the Tribunal are supplied to the learned counsel appearing for Banned Organisations. In case the affidavit was supplied with some delay for some unforeseen reasons, proper accommodation was afforded to the counsels for cross examination. The office of the Tribunal remained available at the mere asking. Thus, such averments, at this stage were totally uncalled for and liable to be condemned. Learned counsels were duly conscious of the statutory time frame and being officers of the Court were obliged to follow the same.

**SUMMARY OF EVIDENCE OF THE CENTRAL GOVERNMENT: -****NATIONAL INVESTIGATING AGENCY**

46. RC No.01/2011/NIA/DLI (previously Crime No.704/2010 registered at PS Muvattupuzha Police Station, Kerala) under Sections 143, 147, 148, 120B, 341, 427, 323, 324, 326, 506 (ii), 307 read with 149 of IPC and Section 3 of the Explosive Substances Act, 1908 pertained to victim Professor T.J. Joseph, Head of Department Malyalam,

Newman College Thodupuzha Idukki District, Kerala who had prepared a question paper for internal examinations out of which one question allegedly contained derogatory remarks against the Prophet Mohd. leading to registration of FIR Thodupuzha PS Crime No.327/2010 against Professor T.J. Joseph under sections 153A / 295 IPC leading to his arrest. Members of the PFI and SDPI conspired to chop the palm of Professor T.J. Joseph. While Professor T.J. Joseph was on bail in FIR Thodupuzha PS Crime No.327/2010, he was attacked by a group of seven persons of PFI and SDPI on 04.07.2010 while coming back from the Church along with his mother and sister. The right palm of Professor T.J. Joseph was chopped off and thrown away in a nearby compound. **PW41 Mr. V. K. Abdul Kader Dy SP NIA, Kochi** was the IO of RC No.01/2011/NIA/DLI. He tendered his evidence by way affidavit **Ex.PW41/A** and filed the certified copy of the judgment dated 30.04.2015 of the Special NIA Court in Sessions Case No.01/2013 (NIA) vide **Ex.PW41/C** vide which 13 accused persons were convicted while the remaining were acquitted. He also placed on record order dated 13.11.2013 of the Court of CJM, Thodupuzha in which Professor T.J. Joseph was discharged in FIR Thodupuzha PS Crime No.327/2010 vide **Ex.PW41/B**.

47. PW41 in cross examination deposed as correct that the initial FIRs were lodged against unknown persons and PFI was not named. Voluntarily he explained that their names were revealed during investigation. He denied the suggestion that PFI was implicated at the instance of political masters. He denied the suggestion that no material like membership form or registers were collected during investigation to show association of accused persons with PFI. Voluntarily he explained that the documents had been filed in the court. He was the Chief Investigating Officer and was conversant with the facts of the case. He denied the suggestion that chargesheet was not filed against PFI as an organization. Voluntarily he explained that all accused persons were members of PFI.

48. **NIA case no. RC-12/2017/NIA/DLI** dated 05.09.2017 arising out of FIR No. 44/2017 dated 01.07.2017 of PS Delhi Police Special Cell/NDR, Lodhi Road, New Delhi u/s 420, 467, 468, 471, 120-B of the IPC and Section 12 of the Passport Act of Special Cell (SB) against ShajahanVelluva Kandy @ Abu Awwad @ Mohamed Ismail Mohideen, S/o Ahammed Haji Kattintavida R/o Darul Sharaf, PO Koodali, Kannur, Kerala and others, u/s 420, 467, 468, 471,120B of the Indian Penal Code, Sections 18, 20, 38 of the Unlawful Activities (Prevention) Act, 1967 and Section 12 of the Passport Act pertained to accused Shahjahan V.K. who was associated with ISIS and prior to the same he was the activist of PFI. He was close to PFI leaders Shajil, Shameer and Manaf and was in support of declaration of Caliphate by Aboobaker Baghdadi. Four persons along with others conspired to join ISIS for Hijra at Syria. Shahjahan V.K. forged a passport in the name of Mohd Ismail Mohideen and visited Turkey and attempted to cross over Turkey-Syria border on 02.02.2017 along with Abdul Manaf and their families but they were apprehended and deported to India. Abdul Manaf managed to cross to Syria. After deportation to India, Shahjahan V.K. procured and invalid passport in the name of Muhammed Ismail and again tried to go to Syria through Turkey border but he was again apprehended. He was deported to Delhi where he was arrested on 01.01.2017 by the Special Cell of Delhi Police. During the course of the Trial Shahjahan V.K. moved an application and pleaded guilty for all the charges. He was convicted by the Special Judge NIA vide order dated 07.01.2021. **PW42 Mr. Ankit Kumar Garg** was the Chief Investigating Officer of this case who tendered his evidence by way of affidavit **Ex.PW42/A** and filed the record of the FIR vide **Ex.PW42/B** to **Ex.PW42/L**.

49. PW42 in cross examination deposed that it was correct that the FIR did not mention PFI or SDPI and that name of PFI did not come up till 25.10.2017. The disclosure cum recovery memo was recorded on 26.10.2017 after about 115 days of arrest of the accused. Voluntarily he explained that case was transferred to the NIA on 05.09.2017. He could not remember after how many days of custody the statement of the accused was recorded. Proceedings of recording of statement of the accused were not video recorded and no legal assistance was provided to the accused at the time of recording of his statement. He denied the suggestion that the accused was tortured. The accused himself had volunteered to access his Facebook profile if provided a computer but he was unable to do so. Material available in the public domain pertaining to accused was downloaded and recovered from Facebook. He denied the suggestion that the accused had no connection with the PFI.

50. **FIR No. RC-03/2022/NIA/HYD of NIA, Hyderabad** (previously FIR 141/2022 dated 04.07.2022 at VI Town PS, Nizamabad District, Telangana, u/s 120B, 121A, 153A, 141 r/w 34 of IPC, section 13(1) (B) of UA(P) Act) against Abdul Khader and 26 persons. In this case accused persons were radicalizing Muslim Youth and recruiting them in PFI by conducting classes in three stages, first, second and third class of radicalization. In the first class general assessment of prospective PFI cadre is made with respect to knowledge of Islam, poor situation of Muslims in India, atrocities committed on Muslims by right wing organizations. In the second class further radicalization is done by showing them hate speeches. Upon full radicalization, the person is found ready to join the PFI and is administered Bayath (oath of secrecy) and eligibles to PFI. Post recruitment the PFI cadre is sent to terror camps organized by PFI under the guise of beginners course or yoga classes but they are trained to use knives, sickle, iron rods etc to attack on vulnerable areas. Searches were conducted at 48 premises of accused persons and PFI offices in Andhra Pradesh and Telangana leading to arrest of 9 accused persons namely Feroz Khan (A-7), Mohammed Osman @ Usman (A-16), Syed Yahiya Sameer (A-17), Mohammed Irfan (A-29), Abdul Raheem (A-32), Shaik Wahed Ali (A-33), Zafarulla Khan (A-34), Shaik Riyaz (A-35) and Abdul Waris (A-36) who were involved in radicalizing Muslim Youth on communal lines. Recoveries of documents from them revealed that their intention was to achieve the goal of bringing about Islamic Rule in India and to revive the caliphate system. Chargesheet has been filed against 36 persons while

investigation against five persons is pending. Accused persons in their statements admitted their involvements in the offences. **PW-45 Mr. Krishna Kumar Bhardwaj** was the Chief IO of the FIR. He tendered his evidence by way of affidavit **Ex.PW-45/A** and filed the record of the FIR vide **Ex.PW45/B**, Panchnama containing the statement of the accused Abdul Kader (A1) vide **Ex.PW45/C (colly.)**, copy of FIR No. 03/2022/NIA/HYD dated and MHA Order No. F No. 11011/73/2022/NIA dated 25.08.2022 vide **Ex.PW45/D (colly.)**, Charge sheet filed vide **Ex.PW45/E**, Statements of witnesses recorded by PW45 and assisting IOs vide **Ex.PW45/F (colly.)**. **PW-46 Mr. R. Mahesh Kumar**, assisting IO tendered his evidence by way of affidavit **Ex.PW-46/A**. He had recorded the voluntary statements of the witnesses namely 1) Parvez Khan dated 19.10.2022, 2) Shaikh Mujahid Hussain dated 28.11.2022, 3) Abdul Azeez on 29.11.2022, 4) Mohammed Iliyed Ahmed dated 29.11.2022 and 5) MA Baser @ Ammar Latifi on 02.12.2022 vide **Ex.PW46/B (colly.)**. **PW-47 Mr. Jakka Obulesu** is assisting IO who tendered his evidence by way of affidavit **Ex.PW-47/A**. He had recorded statements of the witnesses Shaikh Akhil Ahmed dated 27.11.2022, Khaja Muthibuddin dated 27.11.2022, Mohd. Fazeeluddin dated 29.11.2022, Mohd. Afroz Ahmed dated 30.11.2022, Mohd. Jameel Ahmed @ Jameel dated 02.12.2022 and Mohd. Almas dated 05.12.2022 vide **Ex.PW47/B (colly.)**.

**PW-48 Ms. B.V. Sashi Rekha** assisting IO who tendered her evidence by way of affidavit **Ex.PW-48/A**. She had recorded the statements of witnesses namely 1) Shaikh Hafeez dated 27.11.2022, 2) Mohammed Taufiq Ur Rahman dated 28.11.2022 and 3) Muthur Reman on 01.12.2022 and 4) Syed Salid on 05.12.2022 vide **Ex.PW 48/B (colly.)**.

51. In cross examination PW45 denied the suggestion that his affidavit was based on prediction. PFI was conducting training camps in Andhra Pradesh and Telangana. Voluntarily he explained that participants were being radicalized and provoked against the Govt and persons belonging to other religious community. Participants were imparted weapon training for Muslim youth on the use of knife, sickle, iron rods to attack and kill youth of other religious groups particularly Hindu and RSS organizations. No terrorist act was committed but the training camps were preparing for terrorist attack. He denied the suggestion that his investigation was not based on correct facts. He denied the suggestion that the protected witnesses A-H were fake witnesses. Statements of witnesses disclosed about activities of the PFI. He denied the suggestion that the accused persons were not members of the PFI. No PFI membership was recovered from them. It was correct that no knife, rod or sickle was recovered but from one of the accused persons two sharp edged weapons – long blade knife were recovered. Also recovered one bamboo sticks and nunchakus. He denied the suggestion that the same were planted upon the accused persons. Investigation was conducted by Telangana police before case was transferred to the NIA. He denied the suggestion that statements recorded by Telangana police were not placed on the record. He pointed out the same being **Ex.PW45/C**. Proceedings of recording of statement of the accused were not video recorded and no legal assistance was provided to the accused at the time of recording of his statement.

52. PW46 in cross examination denied the suggestion that the statements of witnesses were recorded under threat or coercion. He denied the suggestion that the witnesses were kept in illegal detention for six days before their statements were recorded. Proceedings of recording of statement of the accused were not video recorded and no legal assistance was provided to the accused at the time of recording of his statement. Cross examination of PW47 and PW48 was identical to that of PW46.

53. **RC No.5/2013/NIA/KOC** (previously FIR No.276/2013 registered with PS Mayyil, Kanoor District, Kerala) pertained to offences committed by members of PFI by secretly imparting training to them in the use of arms and explosives at a building premises used by Thanal Foundation on 23.04.2013. The accused persons had gathered to impart training and instill communal hatred amongst young men. The accused persons gave disclosure statements which were recorded. Chargesheet was filed and after trial all accused persons were convicted in Sessions Case No.2/2013/NIA by the Special Court for NIA cases at Ernakulam. **PW51 is Mr. V. K. Abdul Kader who was the IO** of the case. He deposed by way of affidavit **Ex.PW51/A** and filed certified copy of FIR No.276/2013 vide **Ex.PW51/B**, Certified copy of FIR No. RC 5/2013/NIA/KOC vide **Ex.PW51/C**, certified copy of the judgement dated 20.01.2016 passed by Ld. Special Court for NIA cases RC No.5/2013/NIA/KOC (Sessions Case No.2/2013) vide **Ex.PW51/D**, ordinary copy of order dated 19.12.2016 passed by High Court of Kerala in Criminal Appeal No.147, 231 and 316 of 2016 arising out of (Sessions Case No.2/2013) vide **Ex.PW51/E**. **PW-50 is Smt. Manjusha S.**, Record Clerk in the court of Mr.AnilK.Bhaskar, Learned Special Judge, Special Court (SPE/CBI)-I/NIA cases/Addl.District& Sessions Court-III, Ernakulam, Kerala who produced the original records of case RC No.5/2013/NIA/KOC from the said court with the certified copy vide **Ex.PW50/A (Colly.)**.

54. PW50 having produced certified copy of the record of RC05/2013/NIA / KOC was not subjected to any cross examination. In cross examination PW51 deposed that he was tasked to record statements in RC6/2019/NIA / DLI being the assistant IO. He denied the suggestion that he was directed to record statements targeting the PFI. He could not remember the date of being assigned role of assistant IO. He denied the suggestion that after being appointed assistant IO he associated false witnesses. Voluntarily he stated that he recorded statement of Mohd. Farooq immediately after conducting search of his house. He could not remember whether there was written material to connect Badruddin A-14 with PFI. He denied the suggestion that he had made false statements. He denied the suggestion that he deliberately suppressed supplementary report against A23 and A25 in RC05/2013/NIA / KOC. He explained that observation in document Mark PW30/DB in para 17.4 had been made in respect of recovery of foreign



identity card from the place of incident and one Sanaulla Shabandri who was suspected to be associated with Dawood Ibrahim (D Company). He denied the suggestion that there was no material to connect accused persons with PFI in RC05/2013/NIA / KOC. He denied the suggestion that he did not place on record chargesheet, confessional statements, 161 CrPC statements and seizures in FIR No.1010/2017/ NIA RC No.02/2017/NIA/KOC. Voluntarily he explained that he had filed the judgment. No terrorist act was committed but act was committed in furtherance / preparation of terrorist act. He denied the suggestion that PW1 and PW2 i.e. A3 and A4 who were approvers had been threatened.

55. **RC No.02/2017/NIA/ KOC** at NIA PS Kochi dated 16.12.2017 under sections 3 and 39 of the UAPA (previously crime no.1010/2017, Valapattanam PS Kannur District Kerala). This case pertained to several youngsters from Northern Kerala having joined ISIS / Daish and having migrated to Syria and Afghanistan following the call of ISIS / Daish to perform Hijra (migration) for participating in violent Zehad. Investigation revealed that accused Midlaj@ Abu Mis`ab (A-1), Abdul Rasak K.V. @ Abu Ahmed (A-2), Rashid M.V. @ Abu Sahal (A-3), Manauf Rahman (A-4) and Hamsa U.K. @ Taliban Hamsa (A-5) of Kannur District had attempted to join ISIS. A1, A2 and A3 were intercepted by Turkey authorities and were deported back to India. A4 was intercepted at Mangalore Airport by the immigration authorities. A5 was found to be the mastermind behind of preaching of ISIS /Daish ideology. PFI had also purchased tickets to exit India but he cancelled the same after interception of A4. A1 to A3, A8 and A12 are members of PFI. Chargesheet was filed against the accused persons A1,A2, A5 and A6. A3, A4 and A17 had turned approvers. In the trial A1 admitted that he was member of the PFI in his statement under section 313 of the CrPC. By judgment dated 15.07.2022, the Special NIA Court at Ernakulam convicted A1, A2 and A5. PW51 **Mr. V. K. Abdul Kader** was the IO of **RC No.02/2017/NIA/ KOC**. He placed the certified copy of FIR CR 1010/2010 vide Ex.PW51/F, certified copy of RC No.**RC No.02/2017/NIA/ KOC** vide Ex.PW51/G, certified copy of extract of 313 statement of A1 vide Ex.PW51/H and certified copy of the judgment dated 15.07.2022 vide Ex.PW51/I. The cross examination of PW51 has already been referred to in the preceding paras.

56. **RC 06/2019/ NIA/ DLI** (previously Crime No.17/2019 on 06.02.2019 under sections 341, 294(b), and 307 of IPC which was registered at Thiruvudaimarudhur Police Station, Thanjavur District, Tamil Nadu) was registered on the complaint of R. Shiyam Sundhar regarding attack on his father Ramalingam on 05.02.2019 by four persons with lethal weapons. That day Ramalingam had opposed some persons who were engaging persons of the locality and trying to convince them to convert to Islam from Hindu religion. Ramalingam told those persons to leave. That day at about 11.35 pm some persons blocked the way of Ramalingam and his son and they attacked Ramalingam with deadly weapons referring to the incident which took place earlier that day. **PW-91 A.T Ramachandran**, Deputy Superintendent Of Police District Crime Branch, Dharmapuri District Of Tamil Nadu, the IO of the case who tendered his evidence by way of affidavit **Ex.PW91/A**. He filed the records of the FIR vide Ex.PW91/B (colly.) to Ex.PW91/C (colly.). He had recorded the statements of A-1 to A-10 vide Ex.PW91/C. Later on this case was transferred to NIA and registered as **RC 06/2019/ NIA/ DLI**. During the course of investigation 18 persons were arrested and incriminating materials were seized from them. The assailants were members of the PFI Dawah team. Chargesheet was filed in the Special NIA Court at Poonamallee, Chennai, Tamil Nadu. **PW52 A.P. Shoukkathali** was the IO of the NIA case **RC 06/2019/ NIA/ DLI** who deposed by way of his affidavit Ex.PW52/A. He filed on record copy of complaint and FIR 17/2019 vide Ex.PW52/M (colly.), copy of RC 06/2019 NIA/ DELHI vide Ex.PW52/N, seizure lists vide Ex.PW52/O, chargesheet vide Ex.PW52/P, statements of witnesses recorded in the case vide Ex.PW52/Q. **PW51 V.K. Abdul Kader** was the assisting IO in the NIA case **RC 06/2019/ NIA/ DLI** and he had recorded the statement of A. Mohammed Faruq, father of accused no.14 who admitted that accused no.14 Burhanuddin used to attend several programmes of PFI and SDPI and filed on record the statement of the said witness vide Ex.PW51/J. **PW72 V. Senthil Kumar** had placed on record certified copies of orders dated 01.12.2021 and 29.12.2021 framing charge and additional charge against the accused persons therein passed by Ld.NIA Special Court, Chennai in **RC6/2019/NIA/DLI**, Certified copies of depositions of witnesses PW1, 2, 6 and 11 made before the said learned court vide **Ex.PW72/H** (colly.).

57. In cross examination PW91 deposed that he had not filed copy of the complaint with the FIR. He denied the suggestion that the murder took place due to previous rivalry and personal animosity. He deposed that as per the FIR, PFI members were trying to convince people to convert to Islam. Conspiracy to commit the murder was made on the same day the victim had opposed the attempts of the PFI, after which the murder took place. He admitted that the FIR did not mention PFI and that FIR recorded that there were four identifiable unknown accused persons. Voluntarily he explained that the FIR mentions Rasuddin's friends as accused persons. He denied the suggestion that he did not record statements of those four identifiable accused persons. He denied the suggestion that statements of the accused persons were fabricated. Proceedings of recording of statement of the accused were not video recorded and no legal assistance was provided to the accused at the time of recording of his statement. He denied the suggestion that the accused persons were tortured into giving statements.

58. PW52 in his cross examination deposed that name of PFI was not mentioned in **RC 06/2019/ NIA/ DLI**. Voluntarily he explained that at that time the accused had not been identified. He denied the suggestion that the incident was due to personal animosity. He denied the suggestion that he had converted a personal dispute into a communal issue or that no terrorist act was committed. He denied the suggestion that confessional statements were

recorded after 27.09.2022. PW72 in his cross examination relating to **RC 06/2019/ NIA/ DLI** denied the suggestion that he did not file any chargesheet in the said case. Voluntarily he explained that he had assisted the Chief Investigating Officer in filing the chargesheet. He denied the suggestion that the documents Ex.PW72/H (colly.) were not relevant for the Tribunal.

59. **RC-05/2016/NIA/KOC** (ISIS Omar Al Hindi Case). This case was registered on the complaint of DSP Yashpal Singh Thakur, NIA, in pursuance of credible intelligence information received by the NIA about activities of 15 persons and their associates who were part of PFI and were in support of and owing allegiance to ISIS. Several persons were arrested. Manseed A1 and Safvan P A-9 were members of PFI and its affiliates. They voluntarily disclosed that they had communicated with co-conspirators inside and outside India on social media platforms like Facebook, Telegram etc and had collected funds to wage war against the Govt of India. In the personal search of Safvan P, a vehicle pass to attend PFI meeting held on 01.10.2016 was recovered from him. Mohd. Fayaz A5 has stated about association of A1 Manseed with PFI who had personally trained him i.e. A5 in the use of knife. A5 MohdFayaz made a voluntary confession which was recorded under section 164 of the CrPC by the concerned Magistrate. Chargesheet was filed before the Special NIA Court at Ernakulam, Kerala against 7 accused persons and thereafter against other accused persons. A5 Mohd. Fayaz deposed as PW100. By judgment dated 25.11.2019 Special NIA Court at Ernakulam convicted seven accused persons.

60. In a separate trial by the Special NIA Court, A11 Subahani Haja was convicted by the judgment dated 25.09.2020. By subsequent judgement dated 20.04.2022, A8 and A16 were convicted after pleading guilty for the offences. **PW-52 is Mr. A.P. Shoukkathali is the IO of FIR RC-05/2016/NIA/KOC.** He tendered his evidence by way of affidavit **Ex.PW-52/A** and filed certified copy of FIR Cr No.RC05/2016/NIA/KOC under Section 120B, 121, 121A, 122 of IPC and Section 18,18B, 20, 39 and 39 of the UAPA vide **Ex.PW52/B**, true copy of statement of accused Manseed (A-1 in RC05/2016/NIA/KOC) under Section 161 Cr.P.C., vide **Ex.PW52/C**, true copy of statement the accused Safvan (A-9 in RC05/2016/NIA/KOC) under Section 161 Cr.P.C. vide **Ex.PW52/D**, copy of the mahazar dated 02.10.2016 of Safvan (A-9 in RC05/2016/NIA/KOC) in Malayalam language and typed copy and PFI Vehicle Pass pass of Popular Front of India which was seized from accused Safvan vide **Ex.PW52/E(colly.)**, copy of statement of the accused Mohammed Fayaz (A-5 in RC05/2016/NIA/KOC) under Section 161 Cr.P.C. vide **Ex.PW52/F**, certified copy of statement of Mohammed Fayaz (A-5 in RC05/2016/NIA/KOC) under Section 164 Cr PC vide **Ex.PW52/G**, certified copy of the deposition of Mohammed Fayaz (A-5 in RC05/2016/NIA/KOC who turned approver) recorded in Malayalam language along with its English translation vide **Ex.PW52/H (colly.)**, certified copy of the judgment and order dated 25.11.2019 of Special Court for the trial of NIA cases, Ernakulam, Kerala in RC05/2016/NIA/KOC (Sessions Case No. 1/2017/NIA) vide **Ex.PW52/I**, certified copy of the judgment and order dated 25.09.2020 of Special Court for the trial of NIA cases, Ernakulam, Kerala in RC05/2016/NIA/KOC (Sessions Case No. 2/2017/NIA) vide **Ex.PW52/J**, copy of the judgment and order dated 20.04.2022 of Special Court for the trial of NIA cases, Ernakulam, Kerala in RC05/2016/NIA/KOC (Sessions Case No. 2/2021/NIA)vide **Ex.PW52/K**, copy of the judgment and order and 10.01.2023 of Special Court for the trial of NIA cases, Ernakulam, Kerala in RC05/2016/NIA/KOC (Sessions Case No. 1/2022/NIA)vide **Ex.PW52/L**.

61. PW52 in relation to **RC-05/2016/NIA/KOC** in cross examination deposed that the case was registered on the directions of the MHA. He denied the suggestion that the same was registered to target a democratic organization. He admitted that in the FIR **RC-05/2016/NIA/KOC** name of PFI was not mentioned. He denied the suggestion that statement of accused A1 was fabricated as there was no date mentioned on the same. He denied the suggestion that A1 did not sign the document as it was fabricated. Voluntarily he explained that it was a statement under section 161 CrPC which did not require his signature. Proceedings of recording of statement of the accused were not video recorded and no legal assistance was provided to the accused at the time of recording of his statement. It was correct that questions were not mentioned in the statement Ex.PW52/C of A1 and that the captions were provided by him. He admitted that the documents Ex.PW52/E and Ex.PW52/F did not bear the signature of accused or date. He did not know whether there was mention of PFI in the judgments, 164 CrPC statements or evidence of the approvers. No terrorist act had been committed. Voluntarily he explained that the accused were arrested while hatching conspiracy to commit terrorist act.

62. **NIA Case RC-31/2022/NIA/DLI** registered at Police Station NIA, New Delhi dated 22.07.2022 (previously FIR No.827/2022 dated 12.07.2022 at P.S. Phulwarisharif, Patna u/s 120A, 120B, 121, 121A, 153A, 153B and 34 I.P.C.) pertains to criminal conspiracy by persons who are dissembled in Phulwarisharif area of Bihar for creating disturbance during the proposed visit of the Hon'ble Prime Minister to Bihar. On 11.07.2022 in pursuance of secret information raid was carried out by police officers of Phulwarisharif PS at the premises of Athar Parvez A1 where five sets of documents were recovered-"India 2047 Towards Rule of Islamic India, Internal Document: Not for circulation", Pamphlets "Popular Front of India 20 February, 2021"-25 copies in Hindi and 30 copies in Urdu, 49 Nos cloth Flags, 02 magazines "Mulk keliye Popular Front Ke Saath" and one copy of rent agreement on Non Judicial Stamp by Farhat Bani w/o Md. Jalaluddin Khan with tenant Athar Parvez (A1) son of Abdul Qayum Ansari. Md. Jalaluddin disclosed that the premises were taken on rent by Athar Parvez for imparting training and participants from other States were present on 06.07.2022 and 07.07.2022. Athar Parvez disclosed that he was an active member of SIMI and used to provide legal help to its members lodged in the jail. He was the General Secretary of SDPI, Patna

District and the recovered articles from his premises were of PFI. On the direction of PFI he was creating a secret group of former SIMI members to take revenge on atrocities against Muslim of India and to attack persons who had passed derogatory remarks on Islam. On his disclosure search was conducted at his house leading to recovery of “05 Nos cloth Flags, original rent agreement on Non Judicial Stamp by Farhat Bano w/o Md. Jalaluddin Khan with tenant Athar Parvez son of Abdul Qayum Ansari, 02 sets of document “India 2047 Towards Rules of Islamic India, Internal Document: Not for circulation,” Pamphlets “Popular Front of India 20 February 2021”-05 copies in Hindi and 01 android mobile phone of accused Athar Parvez. FSL provided mirror image of digital documents recovered from the mobile phone was found to be containing videos of PFI members shouting slogans in a protest march to the effect “Gustakh –e-nabi ki ek hi saza- sar tan se juda, sar tan se juda” and “Kafiro ka ek hi ilaj, al jihad –al jihad”. During investigation conducted by the NIA it was found that the seized articles related to the PFI. The flags, pamphlets of PFI dated 20.02.2021 in Hindi and Urdu were issued by OMA Salam, Chairman PFI on the subject “atrocities on Muslims in the Govt of Yogi Adityanath in Uttar Pradesh” and the document “India 2047 Towards Rules of Islamic India, Internal Document: Not for circulation” also related to the PFI. Documents seized from the house of accused Taushif Alam A6 revealed that training was being organized by PFI to physical education cadres. Bank statements of the accused persons revealed that they received funds from the PFI and Rehab India Foundation for use in the criminal conspiracy. The said information was corroborated from the details provided by ED in ECIR 02/HIU/2018. Athar Parvez, Jalaluddin, Nooruddin Zangi and Arman Malik in their disclosure statements admitted their involvements in the offences. Statements of witnesses have been recorded under section 161 and 164 of the CrPC. Chargesheet has been filed against Athar Parvez and three other accused persons on 07.01.2023.

63. **PW-59 Mr. Vipin Kumar of NIA is the CIO of the FIR NIA Case RC-31/2022/NIA/DLI.** He deposed by way of his affidavit Ex.PW59/A and filed certified copy of the FIR No. 827 of 2022 u/s 120A, 120B, 121, 121A, 153A, 153B and 34 I.P.C. registered at PS Phulwarisharif, vide **Ex.PW59/B**, certified copy of Seizure List dated 11.07.2022 pertaining to the rented house of the accused vide **Ex.PW59/C**, certified copy of Seizure List dated 11.07.2022 pertaining to the house under the ownership of the accused vide **Ex.PW59/D**, certified copy of the document ‘India 2047’ seized from the rented accommodation of accused Athar Parvez during the aforesaid search vide **Ex.PW59/E**, certified copy of the FIR registered by NIA being RC-31/2022/NIA/DLI dated 22.07.2022 along with order of the MHA vide **Ex.PW59/F (colly.)**, certified copy of search and seizure list dated 28.07.2022 vide **Ex.PW59/G**, certified copies of orders dated 23.11.2022 and 24.11.2022 of the Adjudicating Authority under the PMLA confirming attachment orders of ED vide **Ex.PW59/H (colly.)**, Certified copies of Statements of the 4 accused persons namely AharParvej, Md. Jalaluddin, Nooruddin Zangi @ Advocate Nooruddin and Arman Malick @ Imtiyaz Anwar vide **Ex.PW59/I (colly.)**, Certified copies of Disclosure Statements of the 4 accused persons namely AharParvej, Md. Jalaluddin, Nooruddin Zangi @ Advocate Nooruddin and Arman Malick @ Imtiyaz Anwar vide **Ex.PW59/J (colly.)**, Certified copy of the redacted statements of three witnesses recorded u/s 161 Cr.P.C. were annexed herewith the affidavit vide **Ex.PW59/K (colly.)**, true copies of the redacted statement of protected witness recorded u/s 164 Cr.P.C. was annexed herewith with the affidavit vide **Ex.PW59/L**, certified copies of 11 statements of witnesses recorded by the witness and Inspector Gyanander Singh Chauhan, NIA during investigation affidavit vide **Ex.PW59/M (colly.)**, certified copies of the sanction orders are collectively annexed herewith with the affidavit vide **Ex.PW59/N (colly.)**.

64. PW59 in cross examination admitted that he did not have knowledge about investigation conducted by State police prior to transfer to NIA. He denied the suggestion that Ex.PW59/C rent agreement was not relevant. Investigation was still continuing. He had not filed all documents before the Tribunal. He denied the suggestion that he had filed selective documents. He had recovered the constitution and manifesto of PFI during investigation which he had not filed. He explained that by manifesto he referred to the document titled India 2047 Ex.PW59/E. He admitted that word manifesto was not mentioned in the document. He could not say whether that document was printed by Lucknow police to mislead people of India. He denied the suggestion that he had placed on record fabricated documents. Proceedings of recording of statement of the accused were not video recorded and no legal assistance was provided to the accused at the time of recording of his statement. He denied the suggestion that statement Ex.PW59/L was recorded after torturing the witness for two days. He denied the suggestion that RIF was not associated with PFI. Investigation relating to transfer of funds from PFI and RIF by the accused persons was still continuing. He denied the suggestion that NWF was not affiliate of PFI.

65. **PW-60 Mr. Akrar Ahmad Khan** had registered FIR No.827 of 2022 dated 12.07.2022 at Police Station Phulwarisharif, Patna u/s 120A, 120B, 121, 121A, 153A, 153B and 34 I.P.C. of which he was the informant. He conducted the search pertaining to Seizure List dated 11.07.2022 at the rented house of the accused Jalaluddin vide **Ex.PW59/C**. He conducted the search pertaining to Seizure List dated 11.07.2022 at the house under the ownership of the accused Athar Parvez vide **Ex.PW59/D** and the document ‘India 2047’ was seized from accommodation of Athar Parvez vide **Ex.PW59/E**. He tendered his evidence by way of affidavit **Ex.PW-60/A**. **PW-61 is Mr. Sajid Akhtar**, tendered his evidence by way of affidavit **Ex.PW61/A**. He deposed that he had recorded Statements of the 4 accused persons namely AharParvej, Md. Jalaluddin, Nooruddin Zangi @ Advocate Nooruddin and Arman Malick @ Imtiyaz Anwar vide **Ex.PW59/I (colly.)**. **PW-62 Mr. Rajesh Kumar Mishra** deposed by affidavit **Ex.PW62/A**. He had conducted the search pertaining to search and seizure list dated 28.07.2022 **Ex.PW59/G** at the residence of accused Tausif Hussain.

66. In cross examination PW60 deposed that he was the informant of the FIR. He denied the suggestion that it was fabricated. Articles were seized prior to registration of FIR. He did not know the source of document Ex.PW59/E but it was recovered from the residence of accused Jalaluddin and Athar Parvez. Search was not video recorded. He denied the suggestion that the document Ex.PW59/E was printed by Lucknow Police to mislead the public. PW61 in his cross examination deposed that proceedings of recording of statement of the accused were not video recorded and no legal assistance was provided to the accused at the time of recording of his statement. Their statements were recorded on the next day of police remand. PW62 in his cross examination denied the suggestion that no search was conducted by him at the residence of Tausif Hussain.

67. **RC-41/2022/NIA/DLI** dated 19.09.2022 registered at Police Station New Delhi under sections 13&18 of the UA (P) Act 1967 and section 120B and 153A of the IPC. The same was registered on the complaint of Vipul Alok on the basis of information received by the Central Govt that Sadiq Sarraf and Mohd Asif of PFI along with other office bearers and members of PFI were indulging in unlawful activities by making provocative utterances to promote enmity and hatred between different religious groups. On 22.09.2022 they were arrested. During investigation evidence was recovered about physical training being given to PFI members like boxing and use of guns. Aim of the physical training and of PFI was to establish Islamic Rule again in India. One Mohd Shafi who was State President of PFI became National General Secretary of SDPI while continuing with his membership of PFI. Investigation revealed that PFI was founded by the banned SIMI. Investigation revealed that one Mohd. Riyaz Attari, member of SDPI and his accomplice Mohd. Ghos had killed a non Muslim person in Udhypur on the pretext of protecting Islam. **PW- 63 Mr. Amit Kumar Kulhari is the IO of the case who deposed by way of his affidavit Ex.PW63/A and filed the record of the FIR i.e. certified copy of FIR No. RC-41/2022/NIA/DLI which has been annexed to this affidavit vide Exhibit PW63/B, Statements of certain witnesses recorded by him vide Ex.PW63/C (colly.), Photographs from the mobile phone of one of the accused Mohd. Asif with certificate under section 65B of Indian Evidence Act vide Ex.PW63/D (colly.).**

68. PW63 in his cross examination deposed that place and period of occurrence were not mentioned in the FIR. He denied the suggestion that the FIR was lodged only with intention to ban PFI. He denied the suggestion that no terrorist act was committed. He explained that crime was committed over a period of time from the formation of PFI till the registration of the case. The FIR in this case was registered on the directions of the MHA. He denied the suggestion that it was registered in violation of section 6 of the NIA Act. The case was under investigation. He deposed that the photographs had been generated by him from the computer which he had been using for investigation. Photographs were recovered from mobile phone of the accused. The mobile phone of the accused did not have any password or passcode. Phone was recovered from the place where accused Mohd Asif was arrested. He denied the suggestion that the mobile phone was planted on the accused. Hash value of photograph is not required to be mentioned in the certificate under section 65B of the Evidence Act. He denied the suggestion that he was prejudiced towards the particular community. He admitted that the statements placed on record of January 2023. He denied the suggestion that NWF was a lawful organization.

69. **RC03/2018/NIA/DLI** U/s. 120B, 153A & 302 of IPC and Sec 16 & 18 of UA (P) Act, 1967 was registered against five known and five unknown persons. Final report was filed against accused Sadham @ Sadham Hussain @ Sadam @ Shatamusen @ Sadamhussain (A-2) and accused Subair (A-3) for the offences under sections 302 r/w 120B, 302 r/w 34, 153A (1) (b) of IPC and section 16(1) (a) 18 and 20 of UAPA on 07.04.2018. **PW-64** Mr. L R Kumar was the then CIO of the case who tendered his evidence by way of affidavit **Ex.PW64/A** and filed true copy of the MHA Order dated 22.01.2018 and certified copy of the FIR registered by NIA as RC 03/2018/NIA/DLI dated 29.01.2018 vide **Ex.PW64/B (colly.)**, true copy of Final report submitted on 07.04.2018 in RC 03/2018/NIA/DLI before Hon'ble NIA Special Court Poonamallee, Chennai, Tamil Nadu vide **Ex.PW64/C. PW- 72 V. Senthil Kumar**, CIO of RC No.03/2018/NIA/DLI had previously investigated as Assistant Investigating Officer. He tendered his evidence by way of affidavit **Ex.PW-72/A**. He filed true copy of supplementary charge sheet submitted on 21.06.2018 and certified copy of supplementary charge sheet submitted on 06.08.2021 in RC-03/2018/NIA/DLI before NIA Special Court Poonamallee, Chennai, Tamil Nadu **Ex.PW72/B (colly)**, Certified copies of the orders dated 19.11.2019 and 15.02.2022 of NIA Special Court Poonamallee, Chennai, orders on charge **Ex.PW72/C (colly)**, true copies of the photographs of accused persons taking part in Unity March parade/Rehearsal Parade **Ex.PW72/D (colly)**, certificate under Section 65 B IEA **Ex.PW72/E**, gist of statements of protected witnesses which is now **Ex.PW72/F**, Certified copies of deposition of witnesses (PW-1, PW-2, PW-3, PW-5 and PW-14) recorded by Ld.NIA Special Court, Chennai **Ex.PW72/G (colly)**.

70. In cross examination PW64 deposed that he had not filed all documents before the Tribunal. He denied the suggestion that he had filed documents selectively. He could not remember whether he filed notice Ex.PW64/DA with the chargesheet. He denied the suggestion that he had suppressed the same from the Tribunal. He denied the suggestion that he targeted PFI on directions of political masteres. During investigation donation slips of PFI were recovered from one of the accused. Both accused had participated in PFI unity marches. PW72 in his cross examination deposed that the chargesheet Ex.PW72/B had not been filed by him. Document Ex.PW72/F did not reflect when and by whom statements were recorded. The photographs Ex.PW72/D (colly.) was data provided by the

FSL with the hash value which was submitted before the court. He denied the suggestion that he had given a false statement or that the photographs were fabricated.

71. **FIR R-C/02/2022/NIA/KOC dated 16.09.2022** (PFI Kerala case) has 14 accused persons including the PFI. The case was registered as the Central Govt had received credible information that PFI and its affiliates in Kerala and other persons had conspired to instigate communal violence and to radicalize its cadre to commit terrorist acts in the State of Kerala. PFI was maintaining operational nexus with banned organization SIMI, LET, ISIS and Al Qaida and that some of the members of the PFI were also members of these two organizations. The investigation revealed that PFI has a secret wing of reporters for collecting details of leaders of prominent members of a particular community and that PFI was imparting physical training to its cadres. Statement of witnesses examined revealed that some of the leaders of the PFI were members / leaders of SIMI. Documents seized during investigation were under scrutiny. Some documents revealed list of individuals whom the PFI had identified for targeting. **PW- 67 Mr. Umesh Rai K** is the CIO of the case who tendered his evidence by way of affidavit **Ex.PW67/A**. He filed certified copy of Government of India, Ministry of Home Affairs, CTCR Division order in F. No. 11011/ 82/2022-NIA dated 16.09.2022 directing NIA to take over the investigation of the case vide **Exhibit PW67/B**, Certified copy of NIA Kochi Police Station FIR No. RC02/2022/NIA/KOC dated 19.09.2022 vide **Exhibit PW67/C**, Certified copy of list of documents submitted to the court dated 23.9.2022 (two lists), 24.9.2022 (three lists), 28.9.2022, 30.09.2022, 10.10.2022, 11.10.2022 & 13.12.2022 vide **Exhibit PW67/D (colly.)**, Certified copy of list of seized articles submitted to the court dated 23.9.2022 (two lists), 24.9.2022, 29.9.2022, 30.09.2022, 10.10.2022, 11.10.2022, 14.10.2022, 15.11.2022 & 13.12.2022 vide **Exhibit PW67/E (colly.)**, Certified copy of list of digital devices forwarded to CFSL New Delhi for analysis and report dated 29.9.2022 (two lists), 12.10.2022, 14.10.2022 & 23.11.2022 vide **Exhibit PW67/F (colly.)**, true copies of the statements of witnesses in closed cover vide **Exhibit PW67/G (colly.)**.

72. PW67 in cross examination deposed that the FIR was registered on the orders of the MHA in which allegations against PFI had been made. He denied the suggestion that no document connecting accused with the PFI were recovered. He had not placed on record all the documents before the Tribunal. He denied the suggestion that he deliberately suppressed the same. He had not filed the seized documents with the seizure list. Statements Ex.PW67/G were recorded after the ban notification. Names of witnesses had been concealed without taking any permission from the court. He denied the suggestion that statements were fabricated to mislead the Tribunal or that digital devices had been planted on the accused. He denied the suggestion that there was no material against CFI and AIIC. He denied the suggestion that statements of witnesses were not made voluntarily. Investigation against NWF was still continuing. He denied the suggestion that NWF was not an associate of PFI. Investigation regarding association of RIF with PFI was continuing. He denied the suggestion that RIF was not connected with PFI.

73. **FIR No. RC-14/2022/NIA/DLI of NIA, Delhi** registered at PS New Delhi u/s 120B and 153A of IPC, sections 17, 18, 18B, 20, 22B, 38 and 39 of UA (P) Act, 1967. The same pertains to act of criminal conspiracy for raising or collecting funds by the office bearers and members of PFI from abroad and inside India for committing or getting committed terrorist acts in various parts of the country. Searches were conducted at 39 locations across ten States including the offices of the PFI. Incriminating documents and digital devices, 432 in number, were recovered which have been sent for forensic examination. Nineteen persons were arrested on 22.09.2022 namely A-1 OMA Salam @ O.M. Abdul Salam, E.M. Abdul Rahiman @ E M A-2, Vice Chairman, Anis Ahmed (A3), Afsar Pasha (A-4), V.P. NazarudheenElamaram @ NazaruddinElamaram (A5), E. Abubakar (A-6), Prof. P. KOya @ Kaleem Koya A7, M. Mohammed Ali Jinnah (A8), Abdul Wahid Sait (A9), A.S. Ismail @ Appamma Ismail (A10), Advocate Mohammed Yousuf (A11), Mohammed Basheer (A15), Shafeer K.P. (A16), Jaseer K.P. (A17), Shahid Nasir (A19), Waseem Ahmad (A21), Mohammed Shakif (A-22), Mohammed Farooq Rehaman @ Muhammed Farooq Ur Rahman (A23), Yasir Hasan @ Yasir Arafat Hasan @ Yasin (A24). During investigation when the accused persons were in police custody, social media extraction of online accounts was carried out which revealed that they were involved in unlawful activities. Bank accounts of the leaders and of the organization revealed payments being made to individuals involved in unlawful activities e.g. Ansaad Badrudeen, accused in FIR No.4/2021 PS ATS Gomti Nagar Lucknow had received payments from these accused persons. Periodical payments were made to persons imparting arms training from the bank account of PFI in Hyderabad. Trainees who have been given arms training were selected to the "service teams" of the PFI. These teams provide security to senior PFI members and also identified members of the RSS / BJP for targeted killings. Statements of eight protected witnesses have been recorded under section 161/164 of the CrPC. As per the same the ultimate goal of PFI was to bring Islamic Rule in India by 2047 through violence under the guise of Gazwa-E-Hind.

**PW-68 Mr. V. Vikraman**, Superintendent of Police, NIA is the Chief Investigating Officer of this case. He tendered his evidence by way of affidavit **Ex.PW-68/A** and Order dated 12.04.2022 of the MHA and certified copy of FIR no. RC 14/2022/NIA/DLI vide **Ex.PW68/B**, Statements of eight witnesses five recorded under section 164 of the CrPC vide **Ex.PW68/C (colly.)** and one statement under section 164 of the CrPC in sealed cover marked as **X.PW 68** deposed that the organizations Rehab India Foundation, Campus Front of India, All India Imams Council, NCHO, NWF, Empower India Foundation and other organizations banned were intricately connected with PFI as leaders of PFI were once members of the banned organization SIMI and were acting in secretive manner. He deposed that on paper they show themselves as an organization working for the upliftment of marginalized sections but investigation

revealed that their motive was to divide society based on religious lines with the ultimate objective to create an Islamic Nation by the year 2047.

74. PW68 in cross examination denied the suggestion that his statement was made at the instance of Central Govt. The statements Ex.PW68/C were recorded after 27.09.2022. They were recorded by the Ld. MM. FIR did not make any allegation of overt terrorist act committed outside the country. The FIR was registered on the directions of MHA on the basis of source information. Several suggestions were made to the witness which were denied. He did not have personal knowledge of Crime No.4/2021 of PS ATS Gomti Nagar. As the case was under investigation all material evidence could not be shared. He denied the suggestion that there was no material to connect the accused persons with the PFI. He denied the suggestion that the statements Ex.PW68/C (colly.) were forcefully taken from the witnesses. He denied the suggestion that NCHRO was a secular democratic body. The documents filed by him before the Tribunal did not mention NWF but he explained that investigation was continuing. RIF or its office bearers had not been made an accused till date. He denied the suggestion that RIF was falsely mentioned by him.

75. **RC- 42/2022/NIA/DLI** (Tamil Nadu PFI Case) registered by NIA under section 120B, 153A, 153AA of IPC and 3 Sections 13, 17, 18, 18B, 38 & 39 of the Unlawful Activities (Prevention) Act, 1967 pertains to investigation on the basis of credible information that the office bearers and members of PFI were clandestinely spreading extremist anti-national ideology throughout Tamil Nadu and were extending support to terrorist organizations such as ISIS. The FIR was registered against members of the PFI and other unknown persons including A.M. Idris @ Ahamed Idris (A-1), Mohamed Sigam (A-2), Mohamed Abuthahir A-3, Advocate Khalid Mohammed A4, Syed Ishaaq A-5, S. Khaja Maideen A-6, Barakatulla A-7, Yasar Araft A-8, Fayaz Ahamed (A-9), District President of Cuddalore District PFI A-10, Popular Font of India (11), A.S. Ismail @ Appamma Ismail (12), M. Mohammed Ali Jinnah (13), Advocate Mohammed Yousuf and other unknown persons. In pursuance of search warrants issued, searches were carried out at 12 places in Tamil Nadu on 22.09.2022 and A1, A3 to A9 were arrested. Incriminating digital devices, weapons and documents were seized in the presence of witnesses. Accused persons gave disclosure statements admitting that they had conspired with other associates of PFI to carry out unlawful activities to disturb peace and communal harmony. They have been imparting training to their cadres with deadly arms and weapons to carry out the unlawful activities. Statements of protected witnesses have also been recorded.

**PW-69 Mr. V Arun Magesh**, CIO of casetendered his evidence by way of affidavit **Ex.PW69/A**. He filed copy of the MHA order dated 16.09.2022 vide **Exhibit PW69/B**, copy of FIR **Exhibit PW69/C**, copies of seizure memos dated 22.09.2022, 12.10.2022, 14.10.2022, 16.10.2022, 17.10.2022, 18.10.2022, 19.10.2022, 20.10.2022, 31.10.2022, 18.11.2022 & 21.11.2022 & 15.12.2022 vide **Exhibit PW69/D (colly.)**, **Exhibit PW69/E** list of previous involvements of the accused persons, **Ex.PW69/F (colly.)** which are seized documents and photographs of accused persons downloaded from the seized digital devices, certificate under section 65B of IEA **Ex.PW69/G**, gist of the statements of witnesses vide **Exhibit PW69/H**.

76. PW69 in cross examination deposed that Ex.PW69/H did not bear the dates of the recording of statements or by whom they were recorded. Voluntarily he explained that he himself had recorded the statements on various dates. There was no order of any court to conceal identity of witnesses. He denied the suggestion that the statements were fabricated. The photographs and magazines Ex.PW69/F did not contain any hash value. Voluntarily he deposed that the National Forensic Science University had sent true copies of extracted data, one for the court and one for the IO. The court copy was submitted to the court in a sealed cover. He had extracted the documents from the copy of the IO. He denied the suggestion that the material was available on the internet. Voluntarily he deposed that the magazines were retrieved from digital device seized from A6. He had not filed the original of the document at page 102 part of Ex.PW69/F seized from A8. Voluntarily he deposed that the same had been filed before the court. He denied the suggestion that it was a fabricated document. It was seized on 22.09.2022. He denied the suggestion that seizure memo had been left vague. Each document seized had been signed by two witnesses and residents from the house from which it was seized. He had placed material on record to show that Umar Sharif was participated in activities of PFI. As per his confession he was a Silambam artist. He denied the suggestion that he was falsely implicated. He was not aware whether three other similar FIRs have been registered. One of the accused was previously member of AIIC who had joined PFI. He denied the suggestion that NWF was not associated with PFI.

77. **RC-36/2022/NIA/DLI** (Praveen Nettaru Murder case previously FIR No.63/2022 dated 27.07.2022 Bellare PS, Dakshina Kannada District Karnataka under sections 302/34/120B IPC and section 16 and 18 of UAPA) was registered on the complaint of Madhu Kumar with the allegation that on 27.06.2022 he had gone inside of deceased Praveen Nettaru to bring his raincoat. When Praveen Nettaru was about to leave for his home on his motorcycle, three unknown assailants attacked the deceased and fled. Praveen Nettaru had suffered injuries on his head and neck and was brought dead to the hospital. He had 30 antemortem wounds on his body. Praveen Nettaru was District Committee member of Bhartiya Janta Yuva Morcha. Subsequently, the investigation was taken up by the NIA which re-registered the case as **RC-36/2022/NIA/DLI**. Investigation revealed that on 19.07.2022 one Masood of Kalanja village was fatally assaulted by persons belonging to Hindu community and after his funeral, provocative speech was made by accused persons who declared intention to take revenge by killing prominent leaders of Hindu Community. Investigation revealed that members of PFI had taken decision to kill the deceased after hatching conspiracy. **PW-74 Mr. Shanmugam M.**, was the CIO of the NIA case who tendered his evidence by way of affidavit **Ex.PW74/1** and



filed the record of the FIR vide Ex.PW74/B to Ex.PW74/EEE. The same included statements of witnesses and of accused persons as well as search memos. **PW-76 Mr. Check Pal Sehrawat assisting IO of the case** tendered his evidence by way of affidavit **Ex.PW76/A**. He identified - seizure memo dated 06.09.2022 Ex.PW74/BB prepared by him, Ex.PW74/FF photocopy of the original banners and badges which he seized in the above mentioned search. **PW-77 Mr. D. Veicheny**, assisting IO tendered his evidence by way of affidavit **Ex.PW77/A**. He identified seizure memo dated 06.09.2022 Ex.PW74/EE prepared by him and part of Ex.PW74/FF, the certified copy of the oath taken by PFI members in the name of Allah, which was seized by him. **PW-57 Mr. Jagdish S.** produced certified copy of RC No.36/2022/NIA/DLI (Special Case no.123/2023) from the court of Mr.Gangadhara C.MXLIX Addl. City Civil & Sessions Judge & Spl Judge for trial of NIA Cases, Bengaluru vide **Ex.PW57/A**. FIR No.63 of 2022 dated 27.07.2022 at P.S. Bellare u/s 302 and 34 I.P.C. was registered by PSI Rukma Naik of Bellare Police Station on the basis of complaint dated 27.07.2022 **PW-75 Dr. Gana P. Kumar was the initial IO and who** tendered her evidence by way of affidavit **Ex.PW75/A**. She identified the documents already Ex.PW74/D, E,F,G,H,I,L,M,N,O,Q,R,S,T,U,V and W as prepared by her. She deposed that Ex.PW74/D, E and F were statements of witnesses recorded by her. The documents Ex.PW74/G, M,N,R,S and T were statements of accused persons were recorded him A. The documents Ex.PW74/L,U, V and W were seizure memos prepared by her. The documents already Ex.PW74/H, I,O,Q were pointing out memos prepared by her.

78. In cross examination PW74 denied the suggestion that he had not taken permission from the court to mask identity of witness R. A21 Mohd. Jamir had made false statements while retracting his statement before the court. He could not comment on the document Mark PW74/DB as it was uncertified. He denied the suggestion that he had been reprimanded by High Court of Karnataka. He denied the suggestion that he had suppressed statements dated 28.07.2022 of Linga Pujari and Praveen Priya. He denied the suggestion that deceased was murder in a narcotics related case and PFI had been falsely targated. He denied the suggestion that he had fabricated statements to targeted PFI. He denied the suggestion that NWF was not the women's wing of PFI.

79. In cross examination PW75 denied the suggestion that he had suppressed statements Ex.PW75/DA and Ex.PW75/DB of Linga Pujari and Praveen Priya. Voluntarily he explained that they were recorded during inquest proceedings which he had come across during further investigation. He denied the suggestion that statement of Smt. Nuthna was fabricated at the instance of political masters. He denied the suggestion that there was no material to show that Praveen Nettaru was not connected with Bhartiya Janta Yuva Morcha. Legal aid was offered to A-12 Shafiq. He denied the suggestion that A12 was tortured to give a statement. No membership form, subscription form was recovered regarding accused persons but the accused persons themselves disclosed that they were members of PFI. In cross examination PW76 denied the suggestion that he had not complied with legal provisions pertaining to search and seizure. Seizure was made from a community hall. He denied the suggestion that the banner and badges were downloaded from the internet. He had been deputed only to conduct the seizure. He denied the suggestion that CFI, AIIIC or NWF were not connected with PFI.

80. PW77 in cross examination deposed that he did not know Kannad language, but he had asked about Ex.PW74/FF page 325 from the local police. He admitted that name of PFI was not mentioned in the English translation. PW57 had produced the certified copy of the record of RC No.36/2022/NIA/DLI (Special Case no.123/2023) from the court of Mr.Gangadhara C.MXLIX Addl. City Civil & Sessions Judge & Spl Judge for trial of NIA Cases, Bengaluru and was not subjected to any cross examination.

81. **RC/04/2016/NIA/HYD (Rudresh Murder case, previously Crime No.124/2016 PS Commercial Street, Bengaluru under sections 302/34 IPC dated 16.02.2016)** was registered on the complaint of Jayaram stating that after attending RSS route march he along with his friends including R. Rudresh had assembled near Srinivas Medical store, K. Kamraj Road Bengaluru when two unknown persons came on a motorcycle and its pillion rider attacked Rudresh with a sharp long machete on his neck and fled causing fatal injury to deceased Rudresh. Investigation by local police revealed that A1 Irfan Pasha, A2 Wasim Ahmad, A3 Mohd. Shadique, A4 Mohd. Mujeeb Ulla and A5 Asim Sherif, who were active members of the PFI had carried out the incident with the intention to strike terror in the minds of the general public and amongst members of RSS organization and Hindus at large. On the direction of the MHA the case was transferred to the NIA and re-registered as RC/04/2016/NIA/HYD. Investigation revealed that A5 was the President of Bengaluru unit of PFI. The murder of the deceased, and RSS leader was not a result of any personal enmity but deep rooted conspiracy to strike terror in the minds of Hindus and to create communal disharmony. Statements of witnesses were recorded. Waseem Ahmad A2 while committing the murder of R. Rudresh had shouted the words "Chinalke Kaffir" which means bastard and non believer. Accused persons admitted their role in the incident. Email and social media extraction with respect to A5 revealed that his email address showed connection with PFI. Chargesheet in the case was filed. Charge has been framed which was challenged unsuccessfully by the accused persons to the Supreme Court.

**PW-93 Mr. Vikraman P** was the CIO of NIA case who tendered his evidence by way of affidavit **Ex.PW93/A**. He filed on record Certified copy of RC no.04/2016/NIA/HYD **Ex.PW93/B**, Certified copies of statements of witnesses recorded by me namely of Jayaram, D. Kumareshan, Hari Krishan, Adishesha, Venkatesh, Shankar R. Vijay Kumar, Pradeep Kumar, N.A.Nirmala, Subrahmani, Vidyavathi, Prashanath, Nateshan, Sendhil and Udayakumar R @ Lallu **Ex.PW93/C (colly)**, Certified copy of the e-mail extraction proceedings of A-5 Asim Sharif

which is **Ex.PW93/D (colly)**, Certified copy of the disclosure cum seizure mahazar with respect of A-5 Asim Shariff **Ex.PW93/E**, Certified copy of the charge sheet filed in the case **Ex.PW93/F**, Certified copies of the order on charge dated 09.01.2018 passed by Special Court for trial of NIA cases at Bengaluru, certified copy of order dated 22.11.2018 of the High court of Karnataka at Bengaluru, true copy of judgment dated 01.07.2019 passed by the Supreme Court and true copy of order dated 03.09.2019 of the Supreme Court which are now **Ex.PW93/G (colly)**. The Hon'ble Supreme Court in CRL.A. 949 of 2019 titled as Asim Shariff v. National Investigation Agency inter alia held as under:

*“6. The appellant sought discharge under Section 227 CrPC along with other accused persons which came to be rejected vide order dated 2<sup>nd</sup> January, 2018 and framed charges against the accused persons including accused appellant. Special NIA Court under its Order dated 02<sup>nd</sup> January, 2018 while deciding the application of appellant seeking discharge under Section 227 CrPC observed that it was admitted by the defence counsel that the appellant is the President of Bengaluru unit of Popular Front of India (PFI) and the other accused persons nos. 1 to 4 are also the members of PFI. It was also admitted by the defence counsel that there was frequent telephonic/mobile phone conversation among the accused persons nos 1 to 5 prior and subsequent to 16<sup>th</sup> October, 2016 (the date of the incident) which gave rise to the Special NIA Court to arrive at a conclusion that the material placed in the chargesheet on record gives rise to sufficient grounds of subjective satisfaction of prima facie case of alleged offence of conspiracy being hatched among the accused persons. It further observed that the accused appellant has failed to justify the necessary ingredients of Section 227 CrPC and finally held that the matter deserved to be proceeded with framing of charge. The said order came to be affirmed by the High Court on dismissal of the writ petition preferred by the unsuccessful appellant vide its impugned judgment dated 22<sup>nd</sup> November 2018.”*

82. PW93 in his cross examination deposed that the statements Ex.PW93/H (colly.) of accused persons were further statements. Earlier statements have not been produced as they might not have any incriminating material. Voluntarily he explained that ACP Ravi Kumar could better answer the question. He denied the suggestion that documents were filed selectively by him. Statements Ex.PW93/DA and Ex.PW93/DB of Raja Velu had been recorded by ACP Ravi Kumar. He denied the suggestion that deceased Rudresh was murdered due to personal animosity and financial dispute. Raja Velu was the brother of the deceased. He denied the suggestion that Raja Velu had stated that murder was committed due to personal animosity. He had extracted email with the help of IT Expert with the password by accused himself. He denied the suggestion that false chargesheet was filed. He denied the suggestion that CFI and AIIC were not connected with PFI.

83. RC No. 01/2020/NIA/KOC (IS-KP Kannur Case, previously FIR No. 614/2018, registered at Police Station Kannur City, under section 57 of Kerala Police Act and sections 38 and 39 of UAPA at Kannur City Police Station, Kannur District). The case was initially registered on the basis of missing complaint by Mohd. Kunjiand other persons that his daughter Nafsila and her family were missing from 19.11.2018. Investigation revealed that the accused had joined IS KP Islamic State Khorasan Province to wage war against the then Govt of Afghanistan to propagate the ideology of ISIS / IS KP. There are five accused in this case Nafsila KT, Anwar, Shahina, Sajad and Nizamuddin. Kharunisha, sister of Anwar received communication in her mobile phone from Nafsila through secret chat platform. Witnesses in the investigation revealed the association of accused persons with PFI. During investigation accused Nafsila and Shaina were found to be associated with NWF and had joined ISIS and migrated to Afghanistan for waging war against the then Afghanistan Govt. **PW-58 Mr. Sadanandan P. P.** was the IO of the case who tendered his evidence by way of affidavit **Ex.PW58/A**. He filed on record Certified copy of complaint, FIR No.614/2018, **Ex.PW58/B (colly.)**, certified copy of Report for adding sections 38 and 39 of UA (P) Act **Ex.PW58/C (colly.)**, Certified copy of RC 01/2020/NIA/KOC registered by NIA and the MHA Order **Ex.PW58/D (colly.)**, Certified copy of the Seizure Mahazar dated 15.01.2019 **Ex.PW58/E**, Certified copy of the Seizure Mahazar dated 28.01.2019 **Ex.PW58/F**, statements of four witnesses **Ex.PW58/G (colly.)**.

84. In cross examination PW58 deposed that no suspect was named in the FIR but it was stated that elder daughter had gone missing. Voluntarily he explained that he was IO in another case in which investigation revealed that the elder daughter of the complainant had joined ISIS had gone to Syria with her family. It was correct that the memos Ex.PW58/E and Ex.PW58/F do not mention PFI. His evidence was based on records and some from personal knowledge which came during investigation. He had concealed name of witness without any order of the court to protect the identity of the witness. He denied the suggestion that the CFI, AIIC and NWF are not associated with the PFI.

#### **ENFORCEMENT DIRECTORATE**

85. ECIR /02/HIU/2018 was registered by ED on 02.05.2018 on the basis of scheduled offence vide FIR No.RC-05/2013/ NIA/KOC dated 07.08.2013 of NIA, Kochi. As per the investigation of Kerala Police and NIA, group of PFI and SDPI activists entered into criminal conspiracy to impart training to their cadres in the use of explosives and weapons at a camp at Narath, Kannur District. Chargesheet of NIA was filed against 22 accused persons for the offences, inter-alia under sections 120(B), 143, 153-A & 153-B(1)(C) r/w 149 of IPC; sections 5 (1)(a) r/w 25 & 27 of the Arms Act; sections 4&5 of the Explosive Substances Act and sections 18 & 18A of the Unlawful Activities

(Prevention) Act. As per the contents of the FIR and chargesheet filed in FIR No.RC-05/2013/ NIA/KOC the accused persons appeared to have committed the offence under section 3 of the PMLA and thus case was registered by the ED for the same.

86. ECIR /STF/17/2022 was registered by ED on 21.09.2022 on the basis of scheduled offence vide FIR No.RC-14/2022/ NIA/ DLI dated 13.04.2022 registered by NIA Delhi. The same related to information having been received by the Central Govt about office bearers and members of the PFI entering into conspiracy and raising funds within India and abroad through banking channels / hawala for committing or getting committed terrorist acts in various parts of India including Kerala, Tamil Nadu, Karnataka, Uttar Pradesh, Delhi etc. AnsaBadrudeen and Masud Ahmad, members of PFI who were involved in terror acts had received funds from accounts of PFI. These persons were involved in preparations for committing terrorist acts using weapons with intention to strike terror in the minds of the public. They were providing training to their members for these purposes. As the Central Govt was of the opinion that a scheduled offence had been committed under the NIA Act, 2008 direction was issued vide order dated 12.04.2022 by the MHA under section 6(5) of the NIA Act to take up the investigation. The accused persons had indulged in criminal conspiracy to raise funds from within India and abroad through banking channels / hawala / donations for committing or getting committed terrorist acts, it appeared that proceeds of crime had been generated by the accused persons by indulging in criminal act of conspiracy and the proceeds of crime had been used to commit various unlawful activities. It was also likely that proceeds of crime generated through the scheduled offence and related criminal activities had been laundered. Thus, investigation was taken up under the PMLA to identify and prosecute the persons/ parties / entities who were involved in any process connected with the proceeds with crime.

87. Ms. Sonia Narang Special Director, Directorate of Enforcement was examined as PW 30. She tendered her evidence vide affidavit **Ex. PW30/A**. She deposed that the ED had been conducting investigation against PFI on the basis of cases registered by NIA and other law enforcement agencies including FIR No.RC-05/2013/ NIA/KOC, FIR No.199/2020 dated 07.10.2020 PS Maant, UP, FIR 4/2021 dated 16.02.2021 of UP ATS, FIR RC 31/2022/ NIA/ DLI on the basis of FIR No.827/2022 dated 12.07.2022 PS Phulwari Sharif, Patna Bihar and FIR No.14/2022 / NIA / DLI dated 13.04.2022 of NIA. Investigation by ED reveals that in pursuance of criminal conspiracy, PFI was raising funds in clandestine manner to fund their illegal and unlawful activities. More than Rs.60 crore had been deposited in the accounts of PFI since 2009 and more than half the amount was deposited in cash i.e. Rs.32.03 crore. Details of cash donors submitted by PFI during investigation revealed that the same were insufficient and vague. Deposits were not genuine. Statements recorded under section 50 of PMLA Act of donors as per list submitted by PFI revealed that they did not make any donation to PFI and they did not have financial capacity to do so. Investigation revealed that there were some bank transfers into the accounts of PFI and equivalent amount of cash had been deposited in the accounts of the purported donors to show that the transfers were legitimate. Statements of such persons were recorded during investigation in which they have stated that cash deposits in their accounts had been made by leaders of PFI. Investigation and seizures at office premises of PFI at Unity House, Calicut reveals presence of PFI in Gulf countries and mobilization of funds abroad in a well structure manner. Even though Professor P. Koya in his statement under section 50 PMLA denied receipts of foreign funds by the PFI.

88. Accused Rauf Sherif, member PFI and National General Secretary of CFI admitted in his statement under section 50 of the PMLA that PFI collects funds from Gulf countries. PFI works with Rehab India Foundation which collects funds from India and Gulf countries using PFI members in Gulf countries. Rehab India Foundation is not registered with the FCRA but receives foreign contribution amounting to Rs.50,95,203/-. Accused K.A. Rauf Sherif in his statement under section 50 PMLA has stated that Rehab India Foundation was collecting funds from Gulf countries and using members of PFI for this purpose to remit the collections to India. Abdul Razak B P, PFI member and office bearer based in Abu Dhabi had transferred Rs.33,72,043/- to Rehab India Foundation between 2012 to 2020. ShafeequePayeth PFI member in Qatar had transferred Rs.15,59,133/- to Rehab India Foundation between 2018 to 2020. Funds had been deposited to their personal bank accounts from which they transferred the same to their NRE / NRO accounts from which money was transferred to the accounts of Rehab India Foundation through this layering process.

89. CFI is the student wing of PFI. K.A. Rauf Sherif in his statement under section 50 of PMLA admitted that CFI was the student organization of PFI and the President of CFI was elected by the PFI. Rauf Sherif stated that CFI did not have any bank accounts and that he was using his personal accounts for the CFI. Rs.1.36 crore was transferred from abroad to the accounts of K.A.RaufSherif under the guise of international trade of goods.

90. Investigation in ECIR/02/HIU/2018 revealed that PFI leaders and members were developing the residential projects – Munnar Villa Vista Project ( MVVP) at Munnar Kerala to launder money collected from foreign countries and within India to generate funds for PFI for its illegal activities. Abdul Razak BP member of PFI and Ashraf M.K. member of PFI were arrested whose statements were recorded under section 50 of the PMLA. Unexplained and unaccounted cash and foreign funds were deposited in the accounts of MVVP. K.A. Rauf Sherif in his statement under section 50 of the PMLA has revealed that National Women's Front is the parallel organization of PFI as women cannot join PFI. Junior Front mobilizes students of schools below 15-17 years old as they cannot join PFI directly. They are then mobilized to join the PFI after they attained the required age. PFI coordinates with NCHRO to

intervene in situations where matters of alleged Human Right violations take place. All India Imams Council mobilizes Imams all over the country. Some Imams are members of PFI.

91. Investigation has further revealed that anti CAA protest of 2019 were funded from the accounts of PFI and Rehab India Foundation as deposits and withdrawals of money corresponds to the dates of the demonstrations against the CAA. Ansad Badrudeen who had been arrested in UP ATS FIR 4/2021 had received Rs.3,50,000/- in his bank accounts from various bank accounts of PFI from 2018 to 2021 with the last deposit of Rs.10,000/- being on 27.01.2021 which is 20 days prior to his arrest. Documents seized from PFI office at Unity House Calicut include guidance and physical training camps conducted by PFI in Gulf countries where they have about 2000 members. Searches carried out from residence of M. Mohammad Ismail of PFI revealed minutes of meeting of PFI leaders dated 10.11.2020. The diary also contains speeches of OMA Salam, M.K. Faizy, Naziruddin VP, Rauf Sherif, Abdul Hameed, CP Basheer etc.

92. Investigation revealed that four PFI / CFI members Atiqur Rahman, Mohd. Alam, Siddique Kappan and Masud Ahmad arrested by UP police in FIR No.199/2020 dated 07.10.2020 were on their way to Hathras to disturb communal harmony. The said visit was funded by K.A. Rauf Sherif of CFI. Statements of Atiqur Rahman and Masud Ahmad under section 50 of the PMLA were recorded where they admit receiving funds from PFI.

93. PW30 Sonia Narang filed the record of the investigation of the two cases vide Ex.PW30/B to Ex.PW30/AO (colly.). PW-31 is Mrs. Maya B., Senior Manager Canara Bank Pandalam Branch, Distt Pathanamthitta, Kerala who produced the certified record pertaining to Bank Account No.2495101065150 in the name of Anshad s/o Badharudeen maintained Pandalam branch for the period 10.06.2015 to 15.01.2023 vide **Ex.PW31/A**, account opening form with copy of Voter ID card with photo of account holder vide **Ex.PW31/D (colly.)**. She also produced certificate under section 65B of the Indian Evidence Act vide **Ex.PW31/B** and certificate under the Bankers Book Evidence Act 1891 vide **Ex.PW31/C (colly.)**. **PW-32 examined is Mr. Pankaj Kumar Khatri**, Assistant Director (PMLA), ED who tendered his evidence by way of affidavit **Ex.PW32/A**. He had recorded statements witnesses and accused persons in ECIR/02/HIU/2018, the copies of which have been tendered by PW 30, Mrs. Sonia Narang. On an application filed by the Central Government, **PW 32 Mr. Pankaj Kumar Khatri** was recalled for further examination as per order dated 15.02.2023. He tendered his additional affidavit **Ex.PW32/A1** and placed on record certain documents **extracted from the digital devices seized during searches from the office premises of PFI by Directorate of Forensic Sciences (DFS) Gandhi Nagar, Gujarat**. PW 32 Mr. Pankaj Kumar Khatri deposed that a Power Point presentation "Meet our leaders new.ppt" was found contained in one of the devices seized during investigation which revealed that a beginners camp was to be held jointly on 21-25 Nov, 2020 for introduction of leaders of Popular Front of India, Social Democratic Party of India, National Women's Front, Campus Front of India, All India Imams Council, National Confederation of Human Rights Organization. Ms. Preeti Kankani, Deputy Commandant was examined as PW78 who deposed by way of her affidavit **Ex.PW78/A**. She was working as Deputy Director, ED, Cochin Zonal Office between June 2018 to June 2021. She was assigned to execute a search warrant at the office of PFI, Unity House, Calicut on 03.12.2020. Search was carried out by her leading to seizure of documents and digital devices vide seizure memo **Ex.PW78/B (colly.)**.

94. **Mr. Pavneesh Singh Sirohi PW-33** had worked as one of the IOs in ECIR 02 /HIU/2018 dated 02.05.2018 and had assisted the IO in ECIR /STF/17/2022. He had recorded statements under section 50 of PMLA M.K. Ashraf, Mohd. Perwez Ahmad and Masud Ahmad. He also identified his signature on the seizure memo dated 08.12.2021 vide which he had seized mobile phone and loose sheets running into 126 pages from the house of Abdul Razak BP. **PW-43 Mr. Vinay Kumar**, IO of ECIR Number ECIR/02/HIU/2018 dated 02.05.2018 had recorded statements under section 50 of the PMLA of accused persons Rauf Sherif, Abdul Razak BP, OMA Salam and Atiqur Rehman. He had also recorded statement of a protected witness mentioned as "B" under section 17 of the PMLA at pages 211-214 which is part of **Ex.PW30/N**. In cross-examination, PW 43 deposed that he had not taken orders from the Court regarding redacting the identity of the witness referred to as "B".

95. PW30 in cross examination deposed that there was no money transfer in the account of PFI from any foreign country. As part of criminal conspiracy, PFI was raising money abroad and bringing it to the country through hawala and other secret channels. He denied the suggestion that contents of her affidavit regarding conspiracy were false. Entry of Rs.1,80,000/- and Rs.60,000/- in respect of funds received by Ansad Badhrudeen were through multiple transactions. She denied the suggestion that the money was paid to Ansad Badrudeen as monthly maintenance amount. She denied the suggestion that 22 accused persons in ECIR 02/HIU/2018 were not members of PFI. It was correct that by judgment of High Court of Kerala conviction under section 18 and 18A of the UAPA was set aside. RIF did not have any FCRA licence but received funds from abroad from Abdul Razak BP and Shafeeq Payath. She was not aware whether there were donations shown in yearly audit. She denied the suggestion that donations were not proceeds of crime. She was not aware whether the same were spent on flood relief etc. She had no knowledge about the contents of 17.4 in Mark PW30/DB. She denied the suggestion that she had aversion towards PFI and its associates. It was correct that RIF or its office bearers were not accused persons in the FIR. As investigation was pending it was yet to be seen whether RIF was to be arraigned as accused. PFI and CFI office bearers during investigation disclosed under section 50 PMLA that RIF was a front of PFI. Same was corroborated through monetary transactions between them. RIF was a front of PFI which was controlled by PFI and thus RIF was aware that Abdul

Razak and Shafeeq Payeth were member of PFI. It was correct that bank statements of RIF would contain donations from numerous persons. It was correct that Rafu Sherif was granted bail by Special PMLA Court in Kerala. His bail application was dismissed by Special PMLA Court Lucknow. She denied the suggestion that two RCs were registered for the same incident. She denied the suggestion that statements of Rauf Sherif, Atiqur Rehman and Masood Ahmad had been fabricated or that they had no connection with PFI. It was correct that NWF and its members were not accused in the FIR but Rauf Sherif in his statement under section 50 PMLA had stated that NWF was a front of PFI and was created to mobilize women as they could not join PFI directly. They had not recorded statements of office bearers of NWF.

96. PW31 had produced certified copies of bank records and she was not subjected to any cross examination. PW32 in his cross examination denied the suggestion that he was not authorized to issue certificate under section 65B of the Evidence Act. He denied the suggestion that such certificate issued by banks had been suppressed. He denied the suggestion that the documents Ex.PW30/L have been fabricated. Abdul Razak BP was member of PFI. He had furnished documents when his statement was being recorded. He denied the suggestion that seizures were illegally made. He denied the suggestion that names of witnesses had been reduced as he had fabricated record. He denied the suggestion that P. Koya had given correct answer to question no.5 in Ex.PW30/O. He denied the suggestion that he had summoned witnesses multiple times and recorded their statements after torturing them. PW33 in cross examination denied the suggestion that Abdul Razak BP did not have connection with the PFI. Abdul Razak BP had furnished some documents while his statement was being recorded which were seized from his residence. He denied the suggestion that the seizure memo Ex.PW30/W was illegal. He had video recorded statements of accused persons after order of the High Court. He denied the suggestion that the statements of the accused persons were recorded after torture or that statements of witnesses were recorded after they were threatened with false implication.

97. PW78 in her cross examination denied the suggestion that the articles seized in the search did not have any connection with the case or that the digital devices seized had been procured from the market and falsely planted on the accused persons. She had not generated the hash value of the digital devices but deposed that the same might have been done by the technical team. PW32 was further examined in chief on 16.02.2023 (referred above). In cross examination thereafter he denied the suggestion that he did not know from which electronic device hard disk was retrieved. Voluntarily he explained that the same were mentioned in Ex.PW32/B4 which is the analysis report of DFS. The hard disk was collected by another officer of ED, sealed and then sent to DFS for examination. It was an external hard disk. He denied the suggestion that the same was purchased from the market and contents were planted in the same. He had not extracted data but had merely analysed the same. He denied the suggestion that the data was fabricated. PW43 in his cross examination deposed that he did not take any orders from any court to redact identity of witness. He did not remember if he checked PFI receipt books from Andhra Pradesh. He did not know whether PFI had filed audited accounts in the Income Tax Department. He did not remember how many times he recorded statement of Rauf Sherif or whether he had retracted his statement. Statement of Abdul Razak BP was audio and video recorded. He could not state about other accused persons. All statements were audio and video recorded after the order of the Delhi High Court. He denied the suggestion that the accused persons were not members of PFI or that they were falsely implicated in the matter. Statement of Atiqur Rehman was recorded in the jail and Rauf Sherif while he was in ED custody. He denied the suggestion that the statements were fabricated. He denied the suggestion that statements were recorded only to prosecute NWF for political reasons. No notice was issued to Rauf Sherif for recording of his statement as he was in ED custody. He denied the suggestion that NCHRO was a secular organization.

### **STATE OF MADHYA PRADESH**

98. FIR Cr.No.43/2022 dated 22.09.2022 registered at PS STF/ATS, Bhopal, M.P. u/s 121A, 153A, 120B IPC and 13 (1) (B), 18 UAP Act, 1967 recorded on the basis of secret information that members of PFI were organizing several programmes in which they were delivering provocative speeches to provoke the Muslim community against the Govt of India to spread communal disharmony. ATS team discovered that Abdul Karim (President, PFI M.P), Abdul Jameel Sheikh (Member PFI MP), Abdul Khalid (General Secretary PFI MP), Mohd. Javed (Treasurer, PFI MP) and others were involved in these programs / processions. The said accused persons were apprehended. Upon interrogation they disclosed that they were members and office bearers of PFI and that PFI did not believe in the Govt and aimed to implement Islamic Rule in India. They were addressing demonstrations to secure support for the PFI across the State of MP. They had distributed pamphlets titled as "Vision 2047 with the plan of implementing Islamic Rule in India by 2047". The said documents were recovered from the accused persons. Investigation revealed that PFI had received money from Rehab India Foundation. **PW-70 Mr. Sudhir Kanoujia**, Dy.S.P.ATS, Bhopal Unit, Madhya Pradesh IO tendered his evidence by way of affidavit **PW70/A**. He filed disclosure statement of accused Abdul Karim **Ex.PW-70/B**, disclosure statement of accused Abdul Khalid **Ex.PW-70/C**, disclosure statement of accused Mohammad Javed **Ex.PW-70/D**, seizure memo dated 22.09.2022 vide **Ex.PW70/E** and arrest memos of accused Abdul Karim, Abdul Jamil Sheikh, Abdul Khalid and Mohammad Javed along its English translations vide **Ex.PW70/F** (colly). **PW-71 Ram Shankar Silawat** Dy. S.P., ATS Unit Indore Investigating Officer tendered his evidence by way of affidavit **Ex.PW-71/A** and filed copy of the FIR vide **Ex.PW71/B**, copies of statements of 18 independent eye witnesses vide **Ex.PW71/C** (colly), copies of disclosures statements of 1. Abdul Rauf Belim, 2. Mohsin Qureshi, 3. Imran Tanwar, 4. Mohd. Shakir Khan, 5. Mohd. Shamshad, 6. Tousif Ahmed, 7. Shahzad Beg, 8.

Ishak Khan, 9. Moulana Zubair Ahmed, 10 Akib Khan, 11. Mohd. Yousuf Moulani, 12. Khwaja Hussain, 13. Shiekh Nasir and 14. Anwar Khan @ Dr.Anwar Siddique **Ex.PW71/D (colly)**, copies of two seizure memos dated 23.10.2022, one dated 24.10.2022 and one dated 28.10.2022 (total four seizure memos) vide **Ex.PW71/E (colly)**.

99. In cross examination PW70 deposed that he was the IO for 10-12 days from the registration of the FIR of which he was the complainant. FIR was registered by him on the basis of source information in the night of 21.09.2022 and all seizures were made from the houses of the accused in the night of 21-22.09.2022. He did not video record proceedings of recording of statements of the accused. He denied the suggestion that no documents pertaining to PFI were seized from the premises of the accused. He denied the suggestion that their statements were fabricated or that the documents seized had been given to him by UP ATS which were planted.

In cross-examination PW 71 deposed that he admitted to be correct that he had not mentioned in his affidavit that in the accounts of PFI money had come from Rehab India Foundation. It was correct that the alleged statements of the witnesses, accused persons and seizure memos exhibited by me today are recorded in or after October, 2022. He also admitted to be correct that independent witnesses on the seizure memos and disclosure statements of the accused persons were not of the same locality as of accused persons. He explained that since PFI is a terrorist organization, the persons of the same locality were avoiding becoming the witnesses.

100. FIR No.636/2019 registered at P.S. Mahakal, Ujjain, M.Pon the basis of complaint SI Gagan Badal who had received information that PFI was protesting against the judgment of the Supreme Court on Babri Masjid. They were carrying posters of PFI and were raising provocative slogans at Begambagh to incite communal tension between Hindus and Muslims. The PFI had posted the photographs and videos of the protested on their Facebook page. The same reflected accused persons participating in the protest namely Jameel Shaikh, Siraj Nagori, Wasim, Irshad, Samiullah Siddiqui, SiruddinNagori, Raju Nagauri, Wajid, JaunaidNagori and others. Statements of 16 witnesses and disclosure statements of six accused persons were recorded. Seizures were made from accused Abdul Jamir including posters containing slogans against the Supreme Court. PW 73Rajendra Jadhav, Sub Inspector of Police was the Investigating Officer who tenderedhis evidence by way of affidavit **Ex.PW73/A**.He filed certified copy of FIR **Ex.PW73/B**, certified copy of panchnama dated 23.11.2019 with its English translated copy which is now **Ex.PW73/C**, certified copies of statements of witnesses Gagan Badal, Sheikh Anwar, Veersingh Solanki, Sarfaraaz Husain, Nasir, Kailash, Shabir Husain, Tahir Uddin, Soheb, Kurban Husain, Aslam, Md. Aslam, Abdul Rashid, Akib Khan, Shahrukh and Md Safdar with translated copies which are now **Ex.PW73/D (colly)**, certified copy of the Panchnama dated 10.12.2019 **Ex.PW73/E**, certified copy of the Panchnama dated 10.12.2019 **Ex.PW73/F**, certified copies of disclosure statements of accused Raju @ Azharuddin Nagori, Wajid Mirza, Sirajuddin @ Siraj, Waseem Khan, Irshad Khan and Samiullah **Ex.PW73/G (colly)**, certified copy of the charge sheet dated 01.01.2021 **Ex.PW73/H**, certified copy of the supplementary charge sheet dated 19.08.2022 with its translated copy which is now **Ex.PW73/I**.

101. In cross examination PW73 deposed that he remained the IO throughout the investigation. The disclosure statements were recorded after one and half years of the registration of the case. No violence took place in the incident. He denied the suggestion that the protest was peaceful by persons in exercise of their constitutional and democratic rights. Accused persons were not apprehended from the spot. He had not filed the supplementary chargesheet. The complainant was a police officer. He denied the suggestion that statements of the accused persons were involuntarily or that nothing incriminating was seized from them.

### **THE STATE OF TAMIL NADU**

102. Five FIRs were registered in Pollachi West Police Station bearing Cr Numbers 256/2022, 257/2022, 258/2022, 259/2022 and 260/2022 which were re-registered as Coimbatore Distt CBCID Cr. Nos 03/2022, 04/2022, 05/2022, 06/2022 and 07/2022 pertain to seven accused persons all belonging to PFI, namely A1 Mohammed Rafeek, A2 Sadik Basha @ Malik, A3 Rameez Raja, A4 Abdul Jaleel, A5 Mohammed Rafi @ Koli Rafi, A6 Rahman Ali @ Abdul Rahman and A7 Noor Mohammed Riyas who had caused damages to five vehicles of victims belonging to Hindu organizations in the early morning of 23.09.2022. The same was in retaliation of arrest of PFI members and searches conducted at their houses and offices by the NIA on 22.09.2022. All the incidents occurred as a chain on the same day in Pollachi, Coimbatore District in the State of Tamil Nadu. **PW1** Mrs. M. Selvameenakshi, Inspector of Police, Special Investigation Division, CDCID is the current IO of the cases who deposed by way of her affidavit **Ex.PW1/A** and produced the records of the FIR i.e. **Ex.PW1/A1-A** to **Ex.PW1/A5**, photographs of the accused persons holding demonstration with PFI flag **Ex.PW1/P1** to **Ex.PW1/P8** and statements of the accused persons in which they stated that they belonged to the PFI **Ex.PW1/P9 (colly.)**. **PW36 Tmt. Ananthanayagi. G.** was the first IO of these five FIRs who deposed by way of her affidavit **Ex.PW36/A**. PW36 had recorded the statements of the accused persons Mohd Rafeek, Sadik Basha, Rameez Raja, Abdul Jaleel, Mohd. Rafi @ Kofi Rafi and Rahman Ali vide **Ex.PW1/P9 (colly.)**.

103. PW1 in cross examination deposed that she had not recorded any statements nor had seized any articles. She had no personal knowledge and had deposed on the basis of records. The photographs **Ex.P1** to **P8** did not have any date and were computer print outs. They were duplicates of their originals. She had collected the same two days ago. She denied the suggestion that the photographs were fabricated or that encircled portions in red had



been inserted. The demonstration at BSNL Pollachi was not permitted by the police. She was not aware about the other demonstrations. She had not investigated as of then whether the accused belonged to PFI. The previous IO had recorded the statements Ex.P9(colly.). She denied the suggestion that they were not voluntary statements. The FIRs had been registered against unknown persons by complainants who were Hindus. She did not collect CCTV footage or CDR to show involvement of the accused persons. No finger prints were lifted from the damaged vehicles but blood stains were lifted from them. As of them no DNA examination was done. She denied the suggestion that the accused were not members of PFI. Only statement made by accused persons that they belonged to PFI was on record.

104. PW36 in her cross examination deposed that the informant and witnesses were from the same locality. She denied the suggestion that the witnesses belonged to Hindu organizations or that they were not independent witnesses. No legal assistance was provided to the accused persons when their statements were recorded. The same were not video recorded. She denied the suggestion that accused persons were made to sign on blank papers.

105. FIR No.746/2014, u/s 341/307/302 r/w 153(A) & 120B and 16(1)(a), 17, 18, 19, 20 The Unlawful Activities (Prevention) Act 1967 FIR was registered on the complaint of K.P.S. Satish involving 17 accused persons out of whom nine were members of Manitha Neethi Pasarai (MNP), parental organization of PFI. They under the leadership of accused Abdul Hakkim had attacked deceased Suresh Kumar, leader of Hindu Munnani Party for Thiruvallur District in front of his office with knives causing him multiple injuries leading to his death. **PW2 Mr. Kanagaraj, ACP, IO** of the case tendered his evidence by way of affidavit Ex. PW2/A and produced the records of the FIR vide Ex.PW2/A1 to Ex.PW2/A4 which included statements of witnesses including one statement recorded under section 164 CrPC of accused no.10 Jagafar Sadhik who admitted that the accused persons were members of the PFI.

The following five cases: -

- (a) Coimbatore City CBCID Cr.No.05/2022, u/s 153A, 435 IPC and Sec.3 of Explosive Substance Act, 1908. (Mother case registered in Coimbatore City D4 Kuniyamuthur PS Cr.No.445/2022 u/s Sec. 153A, 435 IPC and Sec. 3 of Explosive Act @ to Sec. 120B, 153A, 435 IPC and 3 of Explosives Substance Act
- (b) Coimbatore City CBCID Cr.No.06/2022, u/s Sec.153A, 436 IPC and Sec.3 of Substances of Explosives Act, 1908 (Mother case registered in D4 Kuniyamuthur PS Cr.No.447/2022, u/s 153A, 436 IPC and Sec.3 of substances of Explosive Act @ to Sec.120B, 153A, 436 IPC and Sec. 3 of Explosives Act 1908
- (c) Coimbatore District CBCID Crime Number 08/2022, u/s Sec.436 IPC and 4 of TN Public Property (Prvnt. of Damage& Loss) Act, 1992 (mother case registered in Mettupalayam PS Cr.No.761/2022, u/s Sec.436 IPC r/w 4 of Tn Public Property (Prvnt. of Damage & Loss) Act, 1992 @ 436 IPC and 153(A), 3 of Explosives Substances Act
- (d) Coimbatore District CBCID Crime Number 09/2022, u/s Sec.436 IPC and 4 of TN Public Property (Prvnt. of Damage & Loss) act, 1992. (Mother case registered in Mettupalayam PS Cr.No.62/2022, U/s Sec.436 IPC r/w 4 of TN Public Property (Prvnt. of Damage & Loss) Act 1992 @ 436 IPC and 153A IPC, 3 of Explosives Substances Act

pertain to incidents where the accused persons, members of PFI threw petrol bombs causing damage to vehicles of victims belonging to Hindu organizations / BJP functionaries and also caused damage to shops of such individuals on 22.09.2022 and 23.09.2022. The incidents had been caused with the intention to create fear among the Hindu community to vitiate communal harmony between two religions. The cases were under investigation. **PW3 Ms. Muthulekshmi**, Inspector of Police, SID, CBCID, Coimbatore, Tamil Nadu, IO of the case deposed by way of affidavit Ex. PW3/A and produced the records of the said FIRs Ex.PW3/A1-A to Ex.PW3/A5-D. As per her evidence, there were eight common accused persons in CBCID 05/2022 and 06/2022 and four common accused persons in CBCID 08/2022 and 09/2022. All the accused persons belong to PFI and SDPI and were involved in throwing petrol bombs at the houses, shops and vehicles of Hindu supporting leaders.

106. PW2 in cross examination has denied the suggestion that there was no document to show that the accused persons are connected with the PFI. Voluntarily he deposed that the same was mentioned in the statement under section 164 CrPC of accused no.10 Jagafar Sadhik. PW3 in cross examination deposed that she took over the investigation of the cases on 28.11.2022 and 29.11.2022. She did not have personal knowledge of the facts of the case but the same were derived from the record. FIR was registered against unknown persons. Complainants were leaders of Hindu Munani organizations which is a political organization. She was not aware whether any cases had been registered against the complainants. She denied the suggestion that the complainants had caused communal disharmony. PFI membership card was recovered accused Jesuraj who was a Christian. She was not aware whether SDPI and PFI were separate organizations. She denied the suggestion that the case was fabricated to falsely implicate the PFI. Proceedings under NSA had been initiated against Wahidur Rehman.

107. Crime Number 05/2022 dated 28.11.2022 u/s 120(B), 147, 148, 153(A), 307, 436 IPC and 4 TNPPDL Act of Nagercoil CBCID, Kanyakumari District Tamil Nadu. (Mother case: Mondaicadu PS Cr.No.52/2022 u/s 120B, 147, 148, 153(A), 307, 436 IPC and 4 TNPPDL Act) was registered on the complaint of Kalyanasundaram with the allegation that on 24.09.2022 at about 10.50 pm the accused persons threw petrol bombs around his car which was parked at his residence. The activists of PFI had indulged in activities prejudicial to National Integrity and communal harmony. **PW4 Ms. S.S. Vinothini**, Deputy Superintendent of Police is the IO of the case who tendered her evidence by way of her affidavit Ex. PW4/A and produced the record pertaining to the FIR vide Ex.PW4/A1 to Ex.PW4/A11. Investigation had been transferred to her on 28.11.2022. PW4 in her cross examination deposed that she had only produced and filed documents. She did not prepare any documents. She had re-examined the witnesses but did not record their statements again as they made the same statements. She denied the suggestion that she had filed manufactured documents.

108. FIR No.69/2014, Kenikarai Police Station, Ramanathapuram District, Tamil Nadu was registered on the complaint of Sivaraj whose statement was recorded in the hospital. Allegation was that on 17.02.2014, organizers of PFI had assembled near Kumariahkoil for taking out a procession and that he was standing there to see it. Volunteers of PFI entered into a quarrel with police officers and assaulted them with logs, iron pipes etc. Some persons ran towards him with weapons and asked him whether he was Hindu or Muslim and asked his name. When the complainant disclosed his name as Sivaraj, the accused persons shouted “kill this Hindu bastard” after which they assaulted the complainant with logs, iron pipes etc. They also assaulted two other persons who were standing with the complainant while shouting kill the Hindus. **PW5 is Mr. K. Adivel**, Inspector of Police, IO of the case who tendered his evidence through affidavit Ex. PW5/A. He deposed that case was pending trial and the accused persons were functionaries of PFI who were involved in the activities prejudicial to communal harmony and against national integrity. In cross examination PW5 deposed that he took over the investigation on 29.07.2022. He did not conduct investigation as chargesheet had already been filed. He did not prepare any documents. He denied the suggestion that he had no knowledge of activities of the PFI. He did not know whether the Madras High Court had passed an order for DIG enquiry in the case regarding police brutality.

109. Cr.No.142/2022 of Pettai Police Station, Tirunelveli City under Sections 153A, 504, 505(1)(c), 505(2) IPC and 506(ii) IPC was registered on the complaint of Mariappan, Regional President BJP, Tirunelveli West Region with the allegation that in the protest meet held on 17.06.2022 on behalf of SDPI, the accused person Tmt. Jannath had stated that “*if you give one hour time to Muslim people, if they get one hour time opportunity, not a single sanghi will be alive in the land of India.*” The speech was given to incite committing of offences between two religions. **PW6 Mrs. A. Shoba Jency**, Inspector of Police is the IO of the case who tendered her evidence by way of affidavit Ex. PW6/A. She produced the record of the FIR vide Ex.PW6/A1 to Ex.PW6/A4. She deposed that the accused Tmt. Jannath was President of National Women’s Front affiliated with PFI Tirunelveli District. Investigation was pending. She had produced a video recording of the speech of the accused vide Ex.PW6/P5 with English transcription and certificate under section 65B of IEA which she tendered on 13.02.2023 in pursuance of order dated 20.12.2022. In cross examination PW6 deposed that all documents had been prepared by the previous IO. FIR did not mention about PFI. Voluntarily she explained that their involvement surfaced in the statement of witness under section 161 CrPC. Summons had been sent to the witnesses before their examination. Witnesses stated about connection of accused persons with NWF. The meeting was organized by SDPI after taking police permission. Video was recorded by Ct. No.781. Accused Janath was not apprehended from the spot. She denied the suggestion that the video recording was not of the meeting dated 17.06.2022.

110. Crime No.114/2021 of Mettupalayam Police Station, Coimbatore District, Tamil Nadu, under Sections 147, 148, 294(b), 153A, 505(1)(c), 506(2) IPC of Mettupalayam Police Station, Coimbatore District, Tamil Nadu was registered on the complaint of Thiru. V.P. Jeganathan, District President of BJP Party, Coimbatore North District with the allegations that on 26.01.2021 on Republic Day accused persons belonging to SDPI and PFI jointly staged a function on the road with a drama artist impersonating the Prime Minister Modi begging in public. Condemning the same the demonstration was organized on 31.01.2021 on behalf of BJP and at that time accused persons belonging to SDPI and PFI assembled with deadly weapons and assaulted public and BJP party members saying that they will change India as separate Muslim country and they want live Hindu community people without destroying them. **PW7 Mr. S. Navaneethakrishnan**, Inspector of Police is the IO of the case who deposed by his affidavit Ex. PW7/A. He produced the record of the FIR vide Ex.PW7/A1 to Ex.PW7/A4. He deposed that case was under investigation and that the activists of PFI were indulging in activities prejudicial to National integrity and communal harmony. PW7 in his cross examination deposed that documents filed by him had been prepared by the previous IO. He took over investigation on 18.07.2022. He had not produced any document other than statements under section 161 CrPC regarding associations of the accused persons with the PFI. FIR no.109/2021 dated 31.01.2021 had been registered against the complainant in the same police station.

111. FIR re-registered in Coimbatore City CBCID Cr. No. 07/2022 u/s 153, 285, 435, 307, 436 of IPC and Sec.3 of the Explosives Substances Act (Mother case registered in Coimbatore, V.H. Road P.S. Cr. No. 182/22) accused persons in Cr No.7/2022 were members of PFI and supporter of SDPI and they had thrown two petrol bombs at Maruti Selection Textile Shop. FIR was lodged on the complaint of Dinesh Kumar, son of owner of the shop with the

allegations that two persons came to the shop and lit fire on two bottles and threw them towards him. The bottles fell on cloth bundles causing them to burn. Cr.No. 08/2022 u/s 153A, 285, 436, 511 IPC r/w. Sec. 3 of Explosive substance Act, 1908 (Mother case registered in Kattoor P.S. Cr. No. 478/22) was registered on the complaint of K. Saravanan, Constable grade-II with the allegation that when he was on sentry duty at the entrance of BJP office, on 22.09.2022 at about 10.35 pm two persons came on a two wheeler and threw a bottle which fell near the BJP office. The bottle had its mouth wrapped with white cloth. **PW8 Ms. T. Rajeswari**, Inspector, SIT, CBCID is the IO of both the cases who deposed by way of her affidavit Ex.PW8/A and produced the record of the cases vide Ex.PW8/A1 to Ex.PW8/B4. She produced statements of accused persons Basha and Naveeth @ Naveen @ Abdul Rahman in FIR 7/2022 vide Ex.PW8/C and Ex.PW8/D in which they admitted to be members of PFI and supporter of SDPI. She produced statements of accused persons Sadham Hussain and Ahamed Sihabudeen in FIR No.8/2022 vide Ex.PW8/E and Ex.PW8/F in which they admitted they were members of PFI. **PW35 Tmt. Sasikala M.** tendered her evidence by way of affidavit **Ex.PW35/A** and deposed that she had recorded Ex.PW8/C statement of accused Basha in the presence of two independent witnesses. **PW34 Tmt. Shanthi V.** tendered her evidence by way of affidavit Ex.PW34/A. She had arrested the accused Sadham Hussain and recorded his statement on 26.09.2022 vide Ex.PW8/E. **PW-38 Tmt. Latha. S.** was the first IO of the mother case Crime No.478/2022 registered with C-1 Kattoor L&O Police Station who tendered her evidence by way of affidavit **Ex.PW38/A**. She had recorded the statement of accused S. Ahamed Shihafdeen on 03.10.2022 in Tamil vide **Ex.PW38/B**.

112. In cross examination PW8 deposed that the statements Ex.PW8/C to Ex.PW8/F were recorded by the previous IO. Investigation was transferred to her on 29.11.2022 and 30.11.2022. Accused persons were in police custody when their statements were recorded. She had prepared the copies from the case diary available with her. She denied the suggestion that nothing was recovered from the accused persons. FIRs were registered against unknown persons. Sections were altered in the FIR on 04.10.2022. She denied the suggestion that she had not conducted any investigation or that there is no material to connect the accused persons with the PFI. PW34 in his cross examination denied the suggestion that the statement of the accused Ex.PW34/B was recorded to falsely implicate the PFI. No legal assistance was given to the accused persons while recording their statements. Pulsar motorcycle was recovered on the statement of the accused. She denied the suggestion that Sadhaam Husain was not member of the PFI. She had not video recorded proceedings of statement of accused. She denied the suggestion that the statement of the accused was manufactured due to diabolic intention of the State and police. She had recorded the statement of Sadham Hussain on laptop and taken print out.

113. PW35 in cross examination denied the suggestion that the witnesses were not independent. Legal Aid Advocate had been informed but no Advocate was present when statement of the accused was being recorded. She denied the suggestion that accused persons retracted their statement before the Magistrate. She denied the suggestion that the witnesses were members of Hindu Front. She denied the suggestion that statement of the accused persons had been extracted from them after tortured. PW38 in her cross examination deposed that signature of the accused was only on the last page of the statement. She denied the suggestion that statements were fabricated after taking signatures on blank pages. She denied the suggestion that the witnesses Neevinesh and Dayanithi belonged to BJP.

114. FIR No 65/22 under Sections 153(A)(1)(a), 504, 504 (2) IPC registered at Pathamadai PS was registered on the complaint of Tr. Ganesan, SI as per which on 11.06.2022 at about 5.30 pm, he saw a demonstration being held by members of All India Imams Council (AIIC) for condemning objectionable remarks made by BJP spokesperson Nupur Sharma and Naveen Jindal on the Prophet. The accused Abirudeen, State President of AIIC had said that if the government wanted to save Nupur Sharma and Naveen Jindal, they should be detained under NSA otherwise they will not be responsible for their lives as some youngsters of his community may not be calm and silent like him. **PW9 M. Subash Rajan**, Inspector of Police is the IO of the case who deposed by way of his affidavit Ex.PW9/A and produced the record of the FIR vide Ex.PW9/A1 to Ex.PW9/A3. PW9 in his cross examination deposed that permission for the demonstration was sought but was not granted. No case was registered for holding demonstration without permission. He did not have personal knowledge of the FIR which was registered by the previous IO. He denied the suggestion that the case had been registered at the behest of BJP functionaries. He denied the suggestion that the procession was held to protect the lives of Nupur Sharma and Naveen Jindal. PFI was not mentioned in the FIR. AIIC which was an associate of PFI had been mentioned. He had mentioned about their association on the basis of notification dated 27.09.2022.

115. Crime No.95/2013 under Section 147, 294 (b), 307, 506 (ii) and 120 (B) IPC and altered to 147, 148, 294(B), 341, 326, 307, 506(ii), 128(B), 153A IPC r/w 149 IPC and altered to 294 (b), 307, 120 B, 506 (ii), 153A, 201, 342, r/w 34 IPC and section 3 (2) (V) (a) SC/ST (POA) Act 1989 was pertaining to victim Rajan, a drinking water vendor. On 03.04.2013 the accused persons belonging to Islam community and members of PFI had gone to Panagudi Rosmiapuram near the Vidiyal Home where they called Rajan on the pretext of purchasing water and they then amputated his left hand. The accused persons brought back the hand of the victim with them in a bag and had committed the offence for the reason that previously Rajan had abused a Muslim girl. The Muslim girl was not related to the accused persons who committed the offence as an act of moral policing. **PW10 Mr. R. Yogesh Kumar**, Deputy Superintendent of Police is in-charge of the case who deposed by affidavit Ex.PW10/A and produced the record of the FIR vide Ex.PW10/A1 to Ex.PW10/A4. **PW37 is Samson. E, Inspector of Police**, Special Intelligence Cell,

Tirunelveli City was the first IO who had tendered his evidence in the form of his affidavit **Ex.PW37/A**. He had recorded the statement of accused Satham Hussain Ex.PW10/B (colly.).

116. In cross examination PW10 deposed that in the FIR complainant had named Jairaj and Vetrivel with whom he had a land dispute. Connection of the accused persons with the PFI had come in the statement of accused Satham Hussain. He produced the said statement vide Ex.PW10/B which was recorded by previous IO. In the statement there is no mention of PFI. However it was seen that the statement mentioned Popular Friends of India Party and Popular Fronts of India. He denied the suggestion that the statement was fabricated. PW37 in cross examination deposed that the victim or the injured were not associated with any organization. He denied the suggestion that the accused were not named in the FIR. Voluntarily he explained that accused were not named and he had solved the case during investigation. Statements of Jairaj and Vetrivel were recorded. He denied the suggestion that he suppressed the said statements from the Tribunal. Proceedings of statements were not video recorded.

117. FIR No.195/2015 under Section 147, 148, 341, 342, 294(b), 324, 307, 379(NH) IPC r/w 120(B) IPC was registered on the complaint of Mohd. Raisuddin with the allegation that he was working as the editor of Tamil daily namely Adhikalai and was spreading awareness among the general public through his articles and social media about evils of society and threat to national security. He had furnished information to Central and State Government and police authorities about illegal activities of SIMI in the name of PFI in which they were brain washing Muslim youth by forming secret camps and giving arms training to them. Due to the same, PFI members had enmity towards the victim. He had been attacked and attempt was made to kill him by the accused persons. It was alleged that on 05.10.2015 the accused persons surrounded him while he was returning to his house and he was assaulted by them with deadly weapons with the accused persons saying that he was a problem and that he should be cut to death. **PW11 Mr.S. Balamurali Sundaram, Inspector of Police** is the IO of the case who deposed by way of his affidavit Ex.PW11/A and filed the records of the FIR vide Ex.PW11/A1 to Ex.PW11/A5. PW11 in his cross examination deposed that complainant of the FIR was Mohd. Raisudeen. There is no allegations of offences under sections 153A/153B in the case. There was nothing in the chargesheet showing connection of SIMI and PFI. It was correct that there was previous enmity between the parties. He denied the suggestion that the matter was of personal enmity in which PFI was not involved.

118. FIR No. 386/2009 under Sections 147, 148, 153 A, 153B, 324, 307 & 120 B read with 34 IPC was registered on the complaint of Dharamaraj with the allegation that after he had boarded a bus post attending idol procession and immersion, on 03.09.2009 at about 1.45 am, the accused persons boarded the bus and instigated religious feelings. They said that persons who have come after attending the procession and immersion should die at once. The accused persons were armed with iron rod and attempt was made to hit the complainant on his head causing him head injury. Accused persons thereafter fled on two wheelers. **PW12 Mr. K. Jayamohan** is the Officer In-Charge of the case who deposed by way of his affidavit Ex.PW12/A and filed the records of the FIR vide Ex.PW12/A1 to Ex.PW12/A5. He deposed that accused persons were members of PFI and that Mohd. Zakaria (A5) had stated so in his confessional statement Ex.PW12/B. PW12 in his cross examination deposed that he had not recorded the confessional statement Ex.PW12/B. It had been recorded by the previous IO. FIR did not mention PFI. He denied the suggestion that the accused denied his statement before the Trial. Except for the statement there was nothing on record regarding association of accused with the PFI. He denied the suggestion that the said statement had been fabricated.

119. **PW13 Mr. M. Sheikh Abdul Kader, Inspector of Police**, Thiruvattar Police Station, Incharge of Thuckalay Police Station, Kanyakumari District is the IO of the four FIRs. He deposed by way of his affidavit Ex.PW13/A and filed the records of the FIRs vide Ex.PW13/A1 to Ex.PW13/A8. The case FIR No. 558/2008 under Sections 147/ 148/ 153A/ 295 (A)/ 294 (b)/ 307/ 506 (ii) IPC was registered on the complaint of Subbiyan with the allegation that on 07.09.2008, 13 accused persons including Syed Ali, Deputy President of MNP owing allegiance to ManithaNeethiPasarai (parent organization of PFI), had gathered during Vinayagar idol procession and had threatened the complainant with wooden logs. The complainant Subbiyan was Union President of Hind Munani and the accused persons threatened him for having lead the said procession. The case was pending trial. FIR No. 560/2008 under Sections 147/ 148/ 436/ 427/ 506(ii) IPC and 3 (1) of TNPPDL Act pertained to complaint of V. Mani, owner of a furniture shop. On 07.09.2008 six persons who were owing allegiance to ManithaNeethiPasarai (parent organization of PFI) came in motorcycles with a cane and two small bottles and threw them in a shop causing fire leading to damage. FIR No. 561/2008 under sections 336, 307 IPC u/s 3(1) of TNPPDL Act, 1992 FIR was lodged on the complaint of Suresh with the allegation that while he was driving his mini bus, four accused persons belonging to ManithaNeethiPasarai (parent organization of PFI) pelted stones on him with intention to cause his death. The front wind screen of his vehicle was damaged causing bleeding injury to one Vineesh. FIR no 564/2008 under sections 147/ 148/ 436/ 427/ 506(ii) IPC and 3 (1) of TNPPDL Act was based on the complaint of Ajeet Kumar, employee of a furniture shop with the allegation that after taking part in Vinaynagar idol immersion procession, he along with Kishore were returning on a motorcycle when the accused persons waylaid them and tore the Hindu Munani flags on their motorcycle and shouted at them for conducting the idol immersion procession.

120. PW13 in cross examination denied the suggestion that his affidavit was based on false facts. He denied the suggestion that he had falsely stated that accused Syed Ali owed allegiance to MNP, parent organization of PFI. He did not know whether PFI was a Hindu or an Indian organization.

121. Crime No.01/2016 registered by SID, CBCID, Coimbatore pursuant to transfer of FIR No. 735/2016 from Thudaliyar Police Station. This case pertains to murder of C. Sasikumar, a Hindu Front leader of Coimbatore by members of the PFI. Allegation is that on 22.09.2016 the victim was going to his home from the BJP office on a scooty and four accused persons Sadham @ Sadham Hussain (A-2), Subair (A-3), Mubarak @ Mohammed Mubarak (A-4) and Mohammed Rafiqul Hassan (A-5) came on two motorcycles and one of the accused persons kicked the scooty of the victim who fell down. Thereafter the accused persons hacked the victim C. Shasikumar with lethal weapons causing him fatal injuries. Immediately after the incident, riots took place in Coimbatore City and neighbouring District and cities. **PW-66 V S S Ananda Arockiya Raj**, who was IO of case. He deposed by affidavit **Ex.PW66/A** and filed the certified copies of the record of the FIR vide **Ex.PW66/B (colly.)** to **Exhibit PW66/E (colly.)**. **PW-65 S. Anantha Kumaar** Deputy Superintendent of Police tendered his evidence by way of affidavit **Ex.PW65/A**. He had recorded the statements dated 05.01.2018 and 08.01.2018 of accused person A-4 Mubarak @ Mohd. Mubarak vide **Exhibit PW65/B (colly.)**. Considering the gravity of the offence, vide MHA order no.11011/02/2018-IS-IV dated 22.01.2018 this case was transferred to the NIA and re-registered as RC03/2018/NIA/DLI (reference to which has been made in the section pertaining to cases of NIA). The investigation established that members of the PFI had hatched a conspiracy for hacking prominent members of Hindu Munani (Front) as part of their violent extremist ideology.

122. PW65 in his cross examination deposed that he was not able to recollect whether the affiliation of the deceased and his organizations to political parties was made out from the FIR. After reading contents of FIR 1/2016 he deposed that the deceased belonged to Hindu Front organization. He denied the suggestion that he had filed a false affidavit. The first statement of the accused was made on 05.01.2018. His interrogation was not video recorded as it was not mandatory. He denied the suggestion that the accused had suffered injuries on his body. He denied the suggestion that the statement of accused had been fabricated after three days of his police custody remand. Signature of the accused was only on the last page. He denied the suggestion that he had been chosen to appear before the Tribunal as he belonged to a particular community. PW66 in cross examination denied the suggestion that the statement of Sadham Hussain was fabricated or forcibly taken. He denied the suggestion that the accused retracted his statement before the Magistrate. His first statement did not mention PFI. He denied the suggestion that the statement was fabricated to target a particular community. It was correct that 294 FIRs had been registered in riots after the murder of the deceased. He had interrogated the accused for five days with his team. His statement was not recorded everyday. The signature of accused Subair was on the last page of his statement. He did not remember if the accused informed the Magistrate that his signatures were taken on blank papers. As per entire statement nothing was recovered from the accused regarding connection with the PFI. He denied the suggestion that the statement of the accused had been fabricated.

123. Crime No.17/2019 on 06.02.2019 under sections 341, 294(b), and 307 of IPC which registered at Thiruvaidaimarudhur Police Station, Thanjavur District, Tamil Nadu was registered on the complaint of R. Shiyam Sundhar regarding attack on his father Ramalingam on 05.02.2019 by four persons with lethal weapons. That day Ramalingam had opposed some persons who were engaging persons of the locality and trying to convince them to convert to Islam from Hindu religion. Ramalingam told those persons to leave. That day at about 11.35 pm some persons blocked the way of Ramalingam and his son and they attacked Ramalingam with deadly weapons referring to the incident which took place earlier that day. PW-91A.T Ramachandran, Deputy Superintendent Of Police District Crime Branch, Dharmapuri District Of Tamil Nadu, the IO of the case who tendered his evidence by way of affidavit **Ex.PW91/A**. He filed the records of the FIR vide **Ex.PW91/B (colly.)** to **Ex.PW91/C (colly.)**. He had recorded the statements of A-1 to A-10 vide **Ex.PW91/C**. Later on this case was transferred to NIA and registered as **RC 06/2019/ NIA/ DLI**. During the course of investigation 18 persons were arrested and incriminating materials were seized from them. The assailants were members of the PFI Dawah team. Chargesheet was filed in the Special NIA Court at Poonamallee, Chennai, Tamil Nadu. PW52 A.P. Shoukathali was the IO of this case who deposed by way of his affidavit **Ex.PW52/A**. He filed on record copy of complaint and FIR 17/2019 vide **Ex.PW52/M (colly.)**, copy of RC 06/2019 NIA/ DELHI vide **Ex.PW52/N**, seizure lists vide **Ex.PW52/O**, chargesheet vide **Ex.PW52/P**, statements of witnesses recorded in the case vide **Ex.PW52/Q**. PW51 V.K. Abdul Kader was the assisting IO in this case and he had recorded the statement of A. Mohammed Faruq, father of accused no.14 who admitted that accused no.14 Burhanuddin used to attend several programmes of PFI and SDPI and filed on record the statement of the said witness vide **Ex.PW51/J**. **(Cross examination of PW91, PW51 and PW52 have been referred to in the section pertaining to NIA cases against RC 06/2019/ NIA/ DLI).**

#### **STATE OF KARNATAKA**

124. **FIR No.54/2015 registered at Police Station Doddapete**, District Shivamogga, under sections 143, 147, 295(A), 153A, 186, 149 of the Indian Penal Codewas registered with the complaint that members of PFI had formed an unlawful assembly with the intention to spread communal disharmony and had taken out a rally for this purpose. During the course of investigation accused persons (1) Shahid Khan, (2) MahamudJilan Khan, (3) Nasir Ahmed (4) Syed Muhammad @ Tabrez (5) Mohammad Nazir (6) Muhammad Farveez (7) Syed Zakaria (8) Abzal @ Abdullah (9) K.H. Muhammad Muktiar (10) Sadiq Hussain @ Siraj and (11) Fayaz s/o Late Feroz were apprehended. They disclosed that they were active members of PFI. PW-44 Mr. Manjunath was the IO of this case and he tendered his

evidence by way of affidavit **Ex.PW-44/A**. He placed on record true copy of FIR i.e. Crime Number 54/2015, u/s 143, 147, 295(A), 153A, 120B, 114, 186 and 149 of the Indian Penal Code, 1860 Doddapete Police Station and English Translation vide **Exhibit PW44/B (colly.)**. He had recorded the statements of all the accused persons vide **Ex.PW44/C (colly.)**. PW 44 also placed on the record true copy of the Chargesheet Crime Number 161/2017 dated 13.01.2017 filed before the court for offences u/s 143, 147, 295(A), 153A, 120B, 114, 186 and 149 of the Indian Penal Code, 1860 vide **Ex.PW44/D**.

125. PW44 in his cross examination deposed that route march of PFI on 19.02.2015 had been permitted by authorities. He was on bandobast duty. He denied the suggestion that persons other than PFI members who caused disturbance. He could not remember whether 35 FIRs were registered that day out of which more than 10 were registered against RSS and sister organizations. He was not aware about the DVD mentioned at page 71. He denied the suggestion that the DVD contained footage of disturbance caused by persons holding saffron flags. He denied the suggestion that the statements of the accused persons had been fabricated. On the basis of the statements of the accused persons raid was conducted at Delhi Darbar Hotel where they were led by the accused no.1 leading to recovery of banners, flags and badges of PFI. He denied the suggestion that the recovery had nothing to do with the accused persons.

126. Case No.25/2015 under Section 143, 144, 147, 341, 323, 353 and 149 IPC, PS Kote, Distt. Shivmogga was lodged on the basis of the complaint that on 19.02.2015 programme of PFI took place. After the conclusion of the programme, the accused persons Kharim, Ashu @ Ashpaq, Jafer, Jafrulla and other Muslim boys formed a group of about 20-25 people and threw stones towards police officers and their vehicles. Accused Qalander Basha and other accused persons in their disclosure statements revealed that they members of the PFI. **PW-49 Mr. Deepak M S.** was the IO of the case and he tendered his evidence by way of affidavit **Ex.PW-49/A**. He filed on record copy of complaint given by PSI Mr. Guru Prasad and FIR vide **Ex.49/B (colly.)**, true copy of the voluntary statement of the accused persons 1) Qalandar Basha 2) Zafrulla 3) Arshar Ahmed Sharif, 4) Habib Pasha 5) Mohammad Shafiullah vide **Ex.PW49/C (colly.)**, copy of the Chargesheet Crime number 25/2015-2017 114, 153A, 205A, 427, 143, 144, 147, 148, 341, 323, 353 and 149 IPC and 2 of Prevention of Damage to Public Property Act, 1984 **Ex.PW49/D**. Accused Zafrulla was convicted by the Trial Court.

127. PW49 in his cross examination denied the suggestion that accused Zafrulla had been acquitted by the appellate court. Copy of judgment dated 15.06.2020 Mark PW49/DA was placed on record. He deposed that the FIR did not mention the name of PFI. He was not aware whether permission was granted for holding of the function. The function was video graphed. He denied the suggestion that the statement of Qalandar Basha and other accused persons had been fabricated after torturing them. Statements of the accused persons were recorded on the dates of their arrests.

128. Crime Number 176/2017 under Section 143, 147, 153A, 448, 302, 120B, 201, 212 r/w 149 of IPC, PS Bantwala Town was lodged on the basis of information that a person belonging to Hindu religion was attacked and killed in pre-planned conspiracy to cause fear and alarm amongst members of Hindu religion and to spread communal hatred. Ten accused persons were arrested namely Sharif @ Mohammad Sharif, Shafi @ Abdul Shafi, Khalim @ Kalimulla, Khalelulla, Kalandar Sadik, Riaz @ Riaz Belthangadi, Sadik Pasha @ Sadik Pasha Sakaleshpur, Mohammad Saleha @ Suhake @ Svale, Rahim Aladi @ Abdul Rahim, Jabbar @ Abdul Jabbar and. The accused persons in their disclosure statements stated that they were active members of the PFI. **PW-53 Mr. M. Subbanna Prakash**, was the IO who deposed by way of affidavit **Ex.PW-53/A**. He filed on record true copy of report in Crime number 176/2017 **Ex.53/B**, voluntary statements of the accused persons namely 1) Sharif @ Mohammad Sharif, 2) Shafi @ Abdul Shafi, 3) Khalim @ Kalimulla, 4) Khalelulla, 5) Kalandar Sadik, 6) Riaz @ Riaz Belthangadi, 7) Sadik Pasha (@ Sadik Pasha Sakaleshpur, 8) Mohammad Saleha @ Suhake @ Svale, 9) Rahim aladi @ Abdul Rahim and 10) Jabbar @ Abdul Jabbar vide **Ex.PW53/C (colly.)**, copy of the Charge sheet dated 17-10-2017 **Ex.PW53/D**.

129. PW53 in his cross examination deposed that the FIR was registered against unknown persons. During investigation involvement of PFI and its members surfaced. PFI as such was not an accused. Voluntarily he explained that the chargesheet had filed against members and office bearers of PFI. Identities of the accused persons were established after 17.07.2022. He denied the suggestion that PFI had been falsely implicated at the instance of higher authorities. Legal Aid was not provided to the accused persons at the time of recording of their statement as they did not seek it. Statements were not video recorded. Statements of the accused persons were recorded within 24 hours of their arrest. He denied the suggestion that the statements of the accused persons had been fabricated.

130. Crime number 315/2015 under Section 153A and 295A of IPC PS Belthangady regarding protests by members of PFI against attacks on mosques and Muslim community by the Sangh Pariwar. Riyaz Farangipete, District Secretary of SDPI had addressed the protest meet and had said "we the members of the Popular Front of India, have distributed the beef in the next few days to attack the Muslim community on the issue of cow. On the coming day of Bakrid festival, we will stop at Belthangadi bus stand and distribute beef publicly. If there is strength, if there is real manliness, stop it. In that case, the soldiers of our Popular Front of India will give befitting punishment" and so on. **PW-54 Mr. Madhava Kodalu** was the IO of the case and he filed on record copy of report in Crime number 315/2015 under Section 153A and 295A of IPC PS Belthangady and English translation **Ex. PW54/A**, true



copy of the spot mazahar with English translation **Ex.PW54/B**, True copy of the seizure Mahazar with English translation **Ex.PW54/C**, True copy of the seizure Mahazar with English translation **Ex.PW54/D**, the property forms in vernacular language and their English translations **Ex.PW54/E (colly.)**, the statements in vernacular language and their English translation **Ex.PW54/F (colly)**, copy of the charge sheet and its English translation **Ex.PW54/G**.

131. In cross examination PW54 denied the suggestion that permission had been granted for the protest. The speech had been videographed which had been filed before the court. He denied the suggestion that the same was not produced before the Tribunal as it was not relevant. Initially the protest was peaceful but after provocative speech, people gathered. Speech was given by Riyaz, secretary of SDPI. He denied the suggestion that the prosecution was done at the instance of senior officers.

132. Crime number 104/2014 offences punishable U/s 153A IPC Police station Belthangady on the basis of contents of a provocative speech contained in a CD which was aimed towards hurting the sentiments of the other community. The speakers Seema Abdul Razak Shafi who belonged to the PFI. **PW-55 Mr. P.Kalai Mar** was the IO of Case and tendered his evidence by way of affidavit **Ex.PW-55/A**. He filed on record copy of report in Crime number 104/2014 offences vide **Ex.PW55/B**, copy of the seizure panchanama and the property form vide **Ex.PW55/C (colly)**, statements under Section 161 Cr.P.C of the witnesses namely. 1) Bhaskara, 2) Dinesh Gowda, 3) Jayraj vide **Ex.PW55/D(colly)**, copy of the Charge sheet Crime number 104/2014 dated 28-3-2017 vide **Ex.PW55/E**.

133. PW55 in his cross examination deposed that he did not place the CD before the Tribunal. FIR was lodged one month after the incident only on the basis of CD. CD was seized five months after registration of FIR. He denied the suggestion that no steps were taken to verify whether the CD was doctored or not. CD was handed over by an unknown person to the complainant. He denied the suggestion that he was deposing falsely.

134. FIR No.181/2015 dt. 09.10.215 PS Moodabidre on the basis of complaint of Anand Pujari to the effect that he and his son Prashant Kumar were running flower business. On 09.10.2015 when they were present at their shops, 6 persons on three motorcycles attacked the victim with deadly weapons causing his death. The accused persons Mohd. Mustafa, Mohd. Ilyas, Badrudeen, Mohd. Imtiyaz and other persons in their disclosure statements stated that they were members of the PFI. **PW-56 Mr. Anantha Padmanabha** tendered his evidence by way of affidavit **Ex.PW56/A** and filed true copy of report in Crime number 181/2015 **Ex.PW56/B**, statements of the accused persons under Section 161 Cr.P.C. namely 1) Mohammed Mustafa, 2) Mohammed Ilyas, 3) Badruddin, 4) Mohammed Imthiyaz, 5) Kabir, 6) Mustafa s/o Ibrahim, 7) Mohd. Shareef, 8) Abdul Rasheed and 9) Ibrahim Liyaqat, Md. Mustafa s/o Maiyaddi and Md. Nawaz **Ex.PW56/C (colly)**, copy of statement of Mohd. Imthiyaz from the court **Ex.PW56/C1**, true copy of the Charge sheet dated 25.12.2015 under Section 143, 147, 148, 302, 120B r/w 149 IPC **Ex.PW56/D**.

135. PW56 in his cross examination deposed that the document **Ex.PW56/C1** was not a certified copy from the court. He was assigned investigation on 09.10.2015. Except voluntary statements, there was no document to connect the accused persons with PFI. Statements of the accused were recorded within 24 hours of their arrest. Legal aid was offered to them but they refused to take it. Case diary had not been produced before the Tribunal. Video recording of investigation regarding statements was not done. He could not name any particular Hindu organization the reference to which had been made in the chargesheet. The FIR did not mention any Hindu organization. He denied the suggestion that he concocted the version of Muslim and Hindu organization in the chargesheet or that FIR was lodged due to personal animosity.

### **STATE OF MAHARASHTRA**

136. CR No. 19/2022, u/s 120-B, 121-A, 153-A, 201, 116 of IPC r/w U/s 13(1)(b) of Unlawful Activities (Prevention) Act, 1967 registered on 21/09/2022 at ATS Kalachowki Police Station, Mumbai, Maharashtra on the complaint of Rohit Rasam, API ATS in which it was stated that members of the PFI namely Sheikh Sadique Qureshi, Mazhar Mansoor Khan @ Mazhar Alim Mansoor Ahmad Khan, Momin Moinuddin Gulam Hussain @ MoinMistri, Mohammad Iqbal Ibrahim Khan and Mohamad Asif Aminull Hussain Khan Adkhikari and others were conspired to wage a war against the government established by law in India. They had conducted several programmes, organized secret and open meetings and planned to engage in antinational activities. Their intention was to establish Islamic Rule in India and to implement Sharia law instead of Constitution of India. They were conspiring to create an atmosphere of terror and fear in the minds of the citizens by using violence. They were imparting physical training to Muslim youth to achieve their objectives. Investigation revealed that Mohamad Asif Aminull Hussain Khan Adkhikari had posted a comment on Facebook on the post of "Mumbai Urdu news" stating "Ab wakt aa chukka haikekaanoonaise logo ka saath de rahahai... behtarhoga ki koibhigustakherasool ho uski garden dhad se alagkar di jaaye". From the mobile phone of Mazhar Mansoor Khan @ Mazhar Alim Mansoor Ahmad Khan PDF file by the name of "Draft booklet on road map for regaining the glory of Islam in India by 2047" was extracted. YouTube video titled "Welcome to India" of the accused Mazhar Mansoor Khan @ Mazhar Alim Mansoor Ahmad Khan containing objectionable material to misguide Muslim community was achieved from <https://youtu.be/tMSG2V4OLKc>. Data extracted from the mobile handset of Mohammad Iqbal Ibrahim Khan were found to be containing several files to the pertaining to the PFI including photographs of sword training under PFI banner and a file name "MH Expansion Plan" containing details of information on strengthening PFI, information of status of Masjids and Mandirs in India since ancient times and videos related to PFI activities. CDRs of the accused persons revealed that they were inconstant



touch with each other. Mobile handset of accused Momin Moinuddin Gulam Hussain @ Moin Mistri was found to be containing a number of documents, photographs, videos and audio files pertaining to PFI which had the possibility of creating communal tension and violence. Statements of witnesses were recorded. Investigation revealed that all the accused persons namely Sheikh Sadique Qureshi, Mazhar Mansoor Khan @ Mazhar Alim Mansoor Ahmad Khan, Momin Moinuddin Gulam Hussain @ Moin Mistri, Mohammad Iqbal Ibrahim Khan and Mohamad Asif Aminull Hussain Khan Adhikari were members of the PFI and that accused Mazhar Mansoor Khan @ Mazhar Alim Mansoor Ahmad Khan was the State Treasurer of PFI in Maharashtra. Chargesheet has been filed in this case and the trial is pending.

137. **PW- 80 Mr. Manoj Karanje, ACP** was the IO of the case who tendered his evidence by affidavit **Ex.PW80/1**. He filed copy of the FIR Cr. No. 19/2022, **Ex.PW80/A**, copies of Orders dated 22.09.2022 and 27.09.2022 regarding formation of SITs **Ex.PW80/B (colly.)**, copy of the Panchnama dated 29.09.2022 drawn by API Santosh Lande **PW80/C (colly.)** regarding documents extracts from mobile phone of accused Mohd. Asif Aminul Hussain Khan Adhikari and certificate under section 65B of the IEA, copy of the Panchnama dated 01.10.2022 drawn by PSI Trupti Patil **Ex.PW80/D (colly.)**, pertaining to extraction of evidence from the mobile phone of accused Majhar Khan with certificate under section 65B of the IEA, copy of the Panchnama dated 01.10.2022 drawn by PSI Trupti Patil **Ex.PW80/E** pertaining to transcript of the talk of the accused Majhar Khan in Youtube Channel Janta Talks, copy of the report u/s. 168 CrPC dated 12.12.2022 submitted by PI Vinod Patil and FSL Report dated containing data extracted from mobile of Mohd. Iqbal Ibrahim Khan by FSL **Ex.PW80/F (colly.)**, copy of the report u/s. 168 CrPC dated 03.01.2023 submitted by API Vikas More and FSL Report report containing the CDR analysis of mobile phone of all five accused persons **Ex.PW80/G (colly.)** and certificate under section 65B of IEA, copy of the report u/s. 168 CrPC dated 13.01.2023 submitted by API Jayesh Khandarkar and FSL Report containing data extracted from the mobile of accused Moinuddin Gulam Hussain Momin **Ex.PW80/H**, copies of the statements of witnesses (1) Abdul Aarif Sikandar Basha, (2) Fardin Jamil Paikar, (3) Mohd. Yasin Abdullah Saiyyad, (4) Smt. Hera Moinuddin Momin and (5) Asif Munavvar Khan **Ex.PW80/I (colly.)**, copies of the statements of witnesses (1) Naseem Niyaz Khan, (2) Javed Khurshid Alam Khan, (3) Habibullah Jamirullah Khan, (4) Abdul Kalam Abdul Samad Shiekh, (5) Naseebullah Jamirullah Khan, and (6) Shafiq Rafiq Badu **Ex.PW80/J (colly.)**, statements of witnesses (1) Masood Mohd. Illiyas Mohd., (2) Momon Ejaz Ahmed Mohd., and (3) Rakesh Chandrashekhar Rai **Ex.PW80/K (colly.)**, copies of statements of witnesses (1) Alli Ahmed Ansari and (2) Mohd. Azad Mohd. Anis Khan (along with true typed translated copy) **Ex.PW80/L (colly.)**, copy of the chargesheet dated 02.02.2023 **Ex.PW80/M**.

138. **PW80** in his cross examination deposed that the certificate under section 65B was not filed with his affidavit. He had not placed on record CDRs pertaining to the certificate. Date, time and place of incident was not mentioned in the FIR but it was prior to 21.09.2022. He denied the suggestion that accused Asif Ali Adhikari had no connection with PFI or that digital documents had been planted in his phone. He denied the suggestion that no investigation was conducted regarding PDF document titled India 2047 and deposed that it had been sent to FSL for finding the source from which it was downloaded. Report was awaited. He denied the suggestion that the Youtube channel mentioned in **Ex.PW80/E** had no connection with PFI. There was no direct reference to PFI in the transcript of the video. Video images seized from the mobile phone of the accused persons showed that they were associated with PFI. He denied the suggestion that there was no material to show that the files and photos were connected with PFI or that the same had been disseminated.

139. **PW-81 Mr. Vinod Patil** Assisting Investigating Officer of the CR. No: 19/2022, tendered his evidence by way of affidavit **Ex.PW81/A**. He had recorded the statements of eye-witnesses Naseem Niyaz Khan dated 26.09.2022, Javed Khurshid Alam Khan dated 29.09.2022, Habibullah Jamirullah Khan dated 29.09.2022, Abdul Kalam Abdul Samad Shiekh dated 29.09.2022, Naseebullah Jamirullah Khan dated 30.09.2022 & Shafiq Rafiq Badu dated 12.10.2022, **Ex.PW80/J (colly.)**. On 12.12.2022 he analyzed the extraction report of the Nyaya Scientific Laboratory, Kalina, Mumbai on the mobile handset of accused Mohammed Iqbal Mohammed Ibrahim, which revealed that his mobile contained a number of files pertaining to the PFI, including photos of sword training under the PFI banner and a file named "*MH Expansion Plan*" (that details information on strengthening of the PFI as also information on the status of masjids and mandirs in India since ancient times along with photographs and videos related to PFI activities). **Mr. Vinod Patil** further deposed that on 03.01.2023, he furnished his report u/s. 168 CrPC, containing the analysis of the CDRs of the accused persons namely Sadiq Kureshi, Moinuddin Gulam Momin, Mazhar Mansoor Khan, Mohd. Asif Aminull Hussain Khan Adhikari, and Mohd. Iqbal Mohamad Ibrahim with 36 witnesses.

140. **PW81** in his cross examination denied the suggestion that no witness made voluntary statements to him or that the same were procured after torturing them. He denied the suggestion that the extraction report prepared by him was not on the basis of mirror images provided by FSL.

141. **PW- 82 is Smt. Trupti Krushnaji Patil** who was the Assisting Investigating Officer of the CR. No: 19/2022, She tendered her evidence by way of affidavit **PW82/A**. She recorded the statements of the eye-witnesses Ali Ahmed Ansari dated 01.10.2022 & Mohd. Azad Mohd. Anis Khan dated 01.10.2022 **Ex.PW80/L (colly.)**. She personally seized on 01.10.2022, a printout of a PDF file by the name "*Draft booklet on road map for regaining the glory of Islam in India by 2047*" as found on the POCO M2 mobile of accused Mazhar Mansoor Khan @ Mazhar Alim Mansoor Ahmed Khan. The PDF file had a document titled "*India 2047- Towards Rule of Islam in India- internal*"

*document; not for circulation*” **Ex.PW80/D (colly.)**. She had made Panchnama of accused Mazhar Mansoor Khan @ Mazhar Alim Mansoor Ahmed Khan’s You Tube Video by name “Welcome to New India” available at <https://youtu.be/tMSG2V4OLKc>, containing objectionable material intended to misguide the Muslim community **Ex.PW80/E**.

142. In cross examination PW82 denied the suggestion that the statements of the accused persons had been procured after torturing them and are fabricated. She denied the suggestion that the digital documents were planted on the phone of the accused or that the same had been manufactured by UP ATS or that he did not have any connection with the PFI.

143. **PW-83 Mr. Jayesh Khandarkar** was Assisting Investigating Officer of CR. No: 19/2022. He tendered his evidence by affidavit **Ex.PW83/A**. He recorded the statements of the eye-witnesses namely Masood Mohd. Illiyas Momin dated 28.09.2022, Momin Eraf Ahmed Gulam Mohd. dated 28.09.2022 and Rakesh Chandrashekhar Kari dated 29.09.2022 **Ex.PW80/K (colly.)**. He analyzed the report of the Nyaya Scientific Laboratory, Kalina, Mumbai on the mobile handset of accused Moinuddin Gulam Hussain Momin (along with 3 other mobile handsets recovered at his house) and furnished report dated 13.01.2023 u/s. 168 CrPC, which shows the presence of a number of documents, photographs, videos, and audio files pertaining to the PFI, which had the possibility of creating communal disharmony and could lead the riots in the country **Ex.PW80/H**.

144. PW83 in his cross examination denied the suggestion that no witness made voluntary statements to him or that the same were procured after torturing them. He denied the suggestion that the extraction report prepared by him was not on the basis of mirror images provided by FSL. He denied the suggestion that the documents were planted.

145. PW- 84 Sh. Santosh Lande Assisting Investigating Officer of CR. No: 19/2022 tendered his evidence by affidavit **Ex.PW84/A**. He prepared Panchnama dated 29.09.2022 **Ex.PW80/C (colly.)** regarding analysis of data recovered from the seized mobile phone of accused Mohd. Asif Aminul Hussain Khan Adhikari.

146. PW84 in his cross examination denied the suggestion that he had not prepared any report or that he had planted digital documents. He denied the suggestion that accused was forced to sign on blank papers. He took the screen shot of Facebook comment, copied it and saved it in MS Word file. It was not saved in the mobile phone of the accused. He denied the suggestion that he was deposing contrary to record.

147. **CR. No. 21/2022, U/sec. 121-A, 122, 153-A, 109, 120-B, 116 and 201 of the Indian Penal Code r/w. 4, 25 of Arms Act, 1959 r/w Sec. 13(1)(b) of the Unlawful Activities Prevention Act (UAPA) dt.22.09.2022** was registered on the complaint of Rahul Bhaskarrao Rode, API ATS. As per the complaint secret information was received that on 23.11.2021 karate training demonstrations were being shown to Muslim Youth near Jama Masjid at Village Chikalthana where Mohasin Nadavi Secetry PFI Aurganabad addressed the gathering. There he stated that Muslim youth were being mob-lynched and attacked in India through Hindu organizations and that PFI was working to physically empower Muslim youth and women. Similar event was organized by the PFI at Ketket gate Aurangabad on 27.11.2021 where Irfan Milli District President PFI and Sabir, General Secretary PFI had addressed the gathering. PFI had also organized workshop on Arms and Physical training on 03.07.2022 and 04.07.2022 at Naregaon, Aurangabad where Imran Sha District Head PFI another PFI activists were present. PFI office bearers Sayed Fazal Syed Khalil, Abdul Hadi and Parvez Khan had delivered provocative speeches. On 14.08.2022 PFI had organized congregation of Ulemas at Ketket Gate Aurangabad which was attended by Irfan Milli, Sheikh Nasir Sheikh Sabir @ Maulana Nasir Nadvi where they had made objectionable speeches with the intention of creating discontent and disaffection in the minds of the Muslim community towards the Central Govt. They had exhorted Muslim Youth to collect arms to establish a new democracy on the basis of Sharia law. The FIR was registered against the following five PFI members namely Shaikh Irfan Shaikh Salim @ Maulana Irfan Milli, Shaikh Naser Shaikh Sabeer @ Maulana Naser Nadvi, Sayyed Faizal Sayyed Khalil, Abdul Hadi Abdul Rauf Momin and Parvez Khan Muzamil Khan. Accused persons were arrested. Mobile phone seized from the accused Shaikh Irfan Shaikh Salim @ Maulana Irfan Milli was found to be containing images related to PFI. House search of Shaikh Irfan Shaikh Salim @ Maulana Irfan Milli led to the recovery of T-shirt with PFI logo, books related to PFI, PFI identity card and two knives and a sword.

148. At the instance of Shaikh Naser Shaikh Sabeer @ Maulana Naser Nadvi house search was conducted where brochures, booklets, pamphlets, letter heads, certificates, envelopes, badges, banners and flags of PFI were recovered. Mobile phone recovered from Sayyed Faizal Sayyed Khalil and from his house search were found to be containing video files and images pertaining to PFI. Mobile phone was recovered from Parvez Khan Muzamil Khan along with three books on PFI physical training guides. From the mobile phone of Parvez Khan Muzamil Khan video files, images and documents pertaining to PFI were recovered. Mobile phone was recovered from the personal search of accused Abdul Hadi Abdul Rauf Momin and from his house search. Mobile phones were found to be containing video files pertaining to PFI. During the interrogation of the accused persons role of Shaikh Umer Shaikh Habib District President PFI came to light. He was apprehended and mobile phone was recovered from him which was found to be containing video file related to PFI. Investigation revealed that on 10.06.2022 AIIC of Jalana had organized a protest against statement made by Nupur Sharma and Naveen Jindal in which accused Shaikh Umer Shaikh Habib had participated and made provocative

statements :- “*Hamare Nabiki Shan Mein Gustakhi Band Karo Band Karo, BJP Murdabad, RSS Mudabad, Nara Ye Takbir Allah Hu Akbar, Gustakhe Rasul Ki Ek Hi Saja Sar Dhad Se Junda, Sar Dhad Se Juda, Nupur Sharma Ko Fansi Do Fansi Do*”. Statements of witnesses were recorded during the investigation who stated that they personally knew the accused persons as members of PFI who had attempted to recruit them. Chargesheet has been filed against the accused persons and the trial is pending.

149. PW- 85 Mr. Sunil Jaysing Tambe, is the IO of the case who tendered his evidence by way of affidavit **Ex.PW85/1**. He filed copy of FIR bearing CR. No. 21/2022(along with true typed translated copy) **Ex.PW85/A**, copy of the orders dated 22.09.2022 appointing AIOs **Ex.PW85/B**, copy of the arrest cum seizure Panchnama dated 22.09.2022 pertaining to arrest of accused Shaikh Irfan Shaikh Salim @ Maulana Irfan Milly **Ex.PW85/C**, copy of the relevant portion (pertaining to the PFI) of the report u/s 168 CrPC dated 09.12.2022 and the FSL Report dated 11.10.2022, **Ex.PW85/D (colly.)**, copy of Panchnama dated 23.09.2022 **Ex.PW85/E (colly.)**, copy of the Panchnama dated 24.09.2022 **Ex.PW85/F**, copy of house search Panchnama dated 22.09.2022 **Ex.PW85/G**, copy of the Panchnama dated 23.09.2022 **Ex.PW85/H**, copy of the relevant portion (pertaining to the PFI) of report u/s 168 CrPC dated 10.12.2022 and the FSL Report dated 11.10.2022 **Ex.PW85/I (colly.)**, copy of arrest Panchnama dated 22.09.2022 (along with true typed translated copy), **Ex.PW85/J**, copy of the relevant portion (pertaining to the PFI) of report u/s 168 CrPC dated 10.12.2022 and FSL Report dated 11.10.2022 **Ex.PW85/K (colly.)**, copy of Panchnama dated 22.09.2022 **Ex.PW85/L**, copy of Panchnama dated 23.09.2022 **Ex.PW85/M**, copy of the relevant portion (pertaining to the PFI) said report u/s 168 CrPC dated 10.12.2022 and the FSL Report dated 04.10.2022 **Ex.PW85/N (colly.)**, copy of arrest Panchnama of accused Shaikh Umer Shaikh Habib dated 10.10.2022 **Ex.PW85/O**, copy of the relevant portion (pertaining to the PFI) of report u/s 168 CrPC dated 14.11.2022 and the FSL Report dated 02.11.2022, **Ex.PW85/P (colly.)**, copy of the Video Shooting Clip Panchnama dated 22.11.2022 **Ex.PW85/Q**, copies of the statements of the said Six (6) independent eye-witnesses **Ex.PW85/R (colly.)**, copies of the statements of the Five (5) independent witnesses (along with true typed translated copies) as enclosed in sealed cover, which bear the signature of Sh. Purushottam Deshmukh at Point ‘E’ on each page, whose signature he can identify as he has seen him writing/ signing in the past on many occasions which are now **Ex.PW85/S (colly.)**, copies of the statements of Four (4) independent eye-witnesses **Ex.PW85/T (colly.)**, copies of statements of Four (4) independent witnesses **Ex.PW85/U (colly.)**, copies of statements of (16) independent eye-witnesses **Ex.PW85/V (colly.)**.

150. PW85 also filed a report under section 168 CrPC of API Purshottam Deshmukh regarding the bank transfer from Rehab India Foundation to the account of accused Parvez Mujimil Khan of PFI **Ex.PW85/W (colly.)**, report under section 168 CrPC submitted by PI Nitin Khandare dated 05.02.2023 **Ex.PW85/X (colly.)** as per which Ms. Salima Zabin Irfan Shaikh received Rs.41,435/- from Rehab India Foundation, report **Ex.PW85/Y (colly.)** under section 168 CrPC of W/API Anjali Rajput dated 28.10.2022 relating to account of Popular Front of India, Khandwa Branch, Pune operated by accused Shaikh Nasir Shaikh Sabir. In the bank account statement of Shaikh Nasir Shaikh Sabir there were 17 receipt entries from the account of PFI totally amounting to Rs.1,80,000/- which bears signatures of W/API Anjali Rajput at point A. She was able to identify her signatures as she has signed in her presence. PW 85 also filed report **Ex.PW85/Z (colly.)** under section 168 CrPC of API Pushpa Patil dated 14.10.2022 relating to account of Umer Habib Shaikh PFI A-6 whose account statement shows transaction between accused and Rehab India Foundation vide two entries vide which the money was received in the sum of Rs.50,000/- and Rs.1,30,000/- in the account of the accused from Rehab India Foundation, photocopy of certain documents relating to **Ex.PW85/F** which indicate association of accused Nasir Shaikh Sabir Shaikh with PFI **Ex.PW85AB (colly.)**.

151. PW 85 in his cross examination deposed that as per the FIR, the time of the offence was not known but the date was mentioned as November 2021 to 21.09.2022. Date of conspiracy was not mentioned. He denied the suggestion that he did not collect CCTV footage or cell phone tower dump data near the place of incident. He denied the suggestion that the recoveries were fabricated to target PFI. He denied the suggestion that the statements of the accused persons were illegally recorded. He denied the suggestion that the accused persons were not connected with PFI. He was not physically present on the spot on 10.06.2022 when AIIC Jalana had organized a protest. He denied the suggestion that CFI, AIIC or RIF have no connection with the PFI. No office bearer of RIF was arraigned as accused. Money received by Sheikh Umar Habib from RIF were for activities of the PFI. He denied the suggestion that the same were made for qurbani.

152. PW-86 Sh. Nitin Kandare Assisting Investigating Officer tendered his evidence by affidavit **Ex.PW86/A**. He had recorded statements of six independent eye-witnesses **Ex.PW85/R (colly.)** and gave report under section 168 CrPC Ext. **PW85/X (colly.)**. PW-87 Smt. Anjali Rajput Assistant Police Inspector tendered her evidence by way of affidavit **PW87/A**. She had recorded statements of four independent eye-witnesses **Ex.PW85/T (colly.)** and given report under section 168 CrPC Ext. **PW85/Y (colly.)**. PW- 88 Shital Chavan Assistant Police Inspector tendered her evidence by way of affidavit **Ex.PW88/A**. She had recorded the statements of four independent eye-witnesses **Ex.PW85/U (colly.)** and had given report under section 168 CrPC Ext. **PW85/D (colly.)**. PW- 89 Smt. Pushpa Patil tendered her evidence by way of affidavit **Ex.PW89/A**. She had recorded statements of sixteen witnesses **Ex.PW85/V (colly.)** and had given report **Ex.PW85/Z (colly.)**. PW- 90 Purushottam Deshmukh Assisting Investigating Officer

tendered his evidence by way of affidavit **Ex.PW90/A**. He had recorded statements of 4 independent eye-witnesses **Ex.PW85/S (colly.)** and submitted report under section 168 of the CrPC already **Ex.PW85/W (colly.)**.

153. PW86 in his cross examination deposed that he prepared his affidavit himself. He masked the identity of the witnesses for their safety. He denied the suggestion that the statements of the witnesses were fabricated. He did not video record process of recording of their statements. He denied the suggestion that they were not eye witnesses. PW87 in his cross examination denied the suggestion that the statements of witnesses were fabricated. He had not video recorded process of recording their statements. He denied the suggestion that his superior officers asked him to target the PFI. Identities of witnesses were masked for their safety. PW88 in her cross examination deposed that no permission was taken from the court to mask the identity of the witnesses. Date of recording of statements were not mentioned. She did not video record the process of recording of statements. She denied the suggestion that she had targeted the PFI at the instance of senior officers. PW89 in her cross examination deposed that she masked the identities of the witnesses for their safety but she had not taken permission from the court. She denied the suggestion that the statement of witnesses had been fabricated by her. She denied the suggestion that she targeted the PFI on the asking of senior officers. PW90 in his cross examination denied the suggestion that he had fabricated statements of witnesses at the instance of his superior officers to target the PFI. He deposed that he had masked the identities of the witnesses to protect them but had not taken permission from any court.

154. **Cr.No: 22/2022, u/s 121A, 153A, 120B, 109 IPC r/w 13(1)(B) UAP Act., date 22/09/2022 of the ATS Kala Chowki, Mumbai, Maharashtra** was registered on the complaint of Balaji Marotrao Chandel, API ATS stating that information was received that members of the PFI were organizing programmes where they were delivering hate speech to provoke Muslim community against the Govt of India on issues such as CAA, NRC, Hijab ban, Triple Talak as being anti-Muslim. On 29.10.2021 PFI organized a protest near the Collectors Office In Nanded where PFI activist Mohd. Abed Ali Mehboob Ali addressed the Muslim community making provocative speeches. He called upon the Muslim community to expel Hindutvadi organization from the country and also stated that Muslim community can kill in self defence. PFI Nanded had organized such meetings on 27.08.2022 and 29.08.2022 at Rahimat Nagar Nanded where decision was taken to increase the cadre of PFI. Mohd. Mehraj Ansari had participated in the said meeting. Information was also received that PFI Parbhani had organized an agitation on 15.04.2022 in front of the Collectors Office Parbhani where PFI activist Abdul Salam Abdul Khayyum delivered provocative speech. Information was also received that Maulana Nisar Ahmad Rashid and Mohd Abdul Karim Abdul Halim members of PFI Parbhani were provoking the youth against the Govt. The PFI had organized an agitation on the subject "Save Muslims in Tripura" where provocative speeches were made. On the basis of the information received, the FIR was registered against the following six PFI members namely Mohammed Abed Ali Maheboob Ali, Mohammad Mehrajoddin Abdul Hai Ansari, Javed Shabeer Ansari, Abdul Salam Abdul Khayyum, Moullana Nisar Ahmad Rashid, Mohammad Abdul Karim Abdul Halim. SIT was constituted to investigate the FIR. Investigation revealed suspicious entries in the bank accounts of Mohammad Mehrajoddin Abdul Hai Ansari and the bank account of PFI as well as between Abdul Salam Abdul Khayyum and Rehab India Foundation, an associate of PFI. Statements of witnesses were recorded who stated that they knew the accused persons being members of PFI who had organized programmes including "Empower India Vision 2047 Programme" at Hotel Taj Patil, Nanded. All the accused persons were found to be members of the PFI. Accused Abdul Salam Abdul Khayyum was the President of PFI Parbhani. After investigation chargeheet was filed. Trial is pending.

155. **PW-94 Mr. Abhay Ramarao Panhekar, ACP** was the IO who tendered his evidence by way of affidavit **Ex.PW94/1** and filed copy of the of the FIR bearing Cr. No. 22/2022 **Ex.PW94/A**, copy of Office Order dated 22.09.2022, **Ex.PW94/B**, copy of Report dated 13.01.2023 furnished by Sh. Sunil Naik u/s. 168 CrPC **Ex.PW 94/C**, bank account statement of Rehab India Foundation along with KYC documents and certificate under Bankers Books Evidence Act reflecting transaction of Rs.60,000/- between Rehab India Foundation and accused Abdul Salam (A4), bank account statement of A-4 Abdul Salam of Axis Bank depicting the receipt of such amount and letter of Axis Bank **Ex.PW94/C1 (colly)**, bank account statement of PFI of Bank of Baroda reflecting transaction of Rs.48,000/- (in four tranches of Rs.12000 each) between PFI and accused Mohd. Mehrazuddin Ansari (A2), bank account statement of Mehrazuddin Ansari (A2) of ICICI Bank depicting the receipt of such amount **Ex.PW94/C2 (colly)**, copies of statements of the Five (5) witnesses **Ex.PW94/D (colly)**, copy of the One (1) independent eye-witness **Ex.PW94/E**, copies of statements of the (8) independent eye-witnesses **Ex.PW94/F**.

156. PW94 in his cross examination deposed that date of offence as per the FIR was 2021 to 21.09.2022. Exact date and time of offence was not known. He took over investigation on 22.09.2022. Statements of witnesses revealed that the accused persons were members of the PFI. He denied the suggestion that witnesses were tainted witnesses or that such witnesses did not exist. He denied the suggestion that entries / receipts of bank statements pertained to hard earned money of the respective persons. He denied the suggestion that the FIR was registered with the ulterior motive to falsely implicate the PFI.

157. **PW-95 Mr. Sunil Naik** Assisting Investigating Officer tendered his evidence by affidavit **Ex.PW95/A**. He had prepared report dated 13.01.2023 under Section 168 Cr.P.C. **Ex.PW94/C** and had recorded statements of five independent witnesses already **Ex.PW94/D (colly)**. **PW-96 Mr. Darshan Shinde** Assisting Investigating Officer tendered his evidence by way of affidavit **Ex.PW96/A**. He had recorded statement of one witness **Ex.PW94/E**. **PW-**

**97 Mr. Babasaheb Thore** Assisting Investigating Officer tendered his evidence by way of affidavit **Ex.PW97/A**. He had recorded statements of Eight (8) eye-witnesses **Ex.PW94/F**.

158. PW95 in his cross examination deposed that he did not serve any notice to the witnesses whose statements were recorded by him. He redacted identity of the witnesses for their security as the investigation was in progress but he did not take any permission from the court. These statements were recorded after the ban imposed on PFI. The cross examination of PW96 and PW 97 are similar to cross examination of PW95.

#### **STATE OF UTTAR PRADESH**

159. FIR No.4/2021 Police Station ATS Gomti Nagar, under sections 120B, 121A of the IPC and Sections 13, 16, 18, 20 of the UAPA and Sections 3,4,5 of The Explosive Substances Act, 1908 and Sections 3, 25 and 35 of the Arms Act 1959 was registered on the complaint / information of **Inspector Hemant Bhushan Singh PW27** who deposed by way of his affidavit **Ex.PW27/A**. He stated that UP STF was receiving intelligence information for the past few days about some members of the PFI planning to challenge the unity, integrity and sovereignty of the country in the near future by forming a terrorist gang under criminal conspiracy and waging war against the government. Such persons were planning to simultaneously attack several sensitive and important places of UP as well as senior office bearers of major Hindu organizations with the intention and aimed to spread social communal hatred. They were collecting deadly weapons and explosives to fulfill their objectives and were organizing their members in different States of India. Specific information was received on 11.02.2021 that two members of the PFI were going to attend a meeting by Lok Manya Tilak Special Train from Katihar to Mumbai. PW27 formed a team. Raid was conducted on the train but the persons could not be found. Subsequently on 16.02.2021 specific information was received that the two members of the PFI namely Ansaad Badrudeen and Feroz would meet their companions at picnic spot Kukrail, Lucknow. The team of UP STF reached the said picnic spot and after waiting for sometime, they apprehended Ansaad Badrudeen and Feroz leading to recovery of 16 pieces of high explosives, devices with detonators, red and blue coloured wire, one pistol .32 bore, 6 live cartridges, cash, two mobile phones, PAN card, voter cards, ATM cards, driving licence of Kerala State, gelatin rods, DP wires, battery, five pages of diary with words written in Malayalam language, page of diary with names of members of their association, and some pen drives. The code words were found to be containing instructions of use of explosives and how Ram Mandir was to be attacked. Statements of Ansaad Badrudeen and Feroz were recorded in which they admitted to be members of the PFI and involved in the incidents. Ansaad Badrudeen was receiving monthly salary of Rs.10,000/- in his bank account from PFI. Copy of bank statement of Ansaad Badrudeen was filed along with other details. PW27 produced certified copy of the FIR **Ex.PW27/B** and certified copy of case diary **Ex.PW27/C**. **PW-14 Mr. Savi Ratan Gautam**, IO of the case, deposed by way of his affidavit **Ex.PW14/A** and filed the record of the FIR vide **Ex.PW14/B** to **Ex.PW14/G**. He was re-examined on 20.01.2023 in which he identified CD No.9,10,11 and 12 **Ex.PW27/C** written by him where he recorded the statement of Ansaad Badrudeen. He had sent samples of explosives recovered from the accused persons to FSL for analysis and as per the FSL report part of CD No.28 dated 08.05.2021 **Ex.PW27/C** the recovered articles were high grade explosives.

160. PW27 in his cross examination deposed that he was the informant of the FIR. He did not record the date and time receipt of information. He did not video record the recovery. Mobile phones of the accused were sealed immediately after the recovery. He denied the suggestion that no recovery was made on the basis of the statement of the accused. He denied the suggestion that no voluntary statement was made by the accused persons. He did not know whether the accused persons ever went to Lucknow Railway Station. Bomb disposal squad was not required to be called as the explosive items had been kept separately in a bag. He did not inform the jurisdictional police station. He denied the suggestion that the accused persons were in custody of STF from 11.02.2021 to 16.02.2021.

161. PW14 in his cross examination deposed that the accused persons were arrested on 16.02.2021. He did not know whether the accused persons moved any application before the court on 17.02.2021. Two applications **Ex.PW14/DA** and **Ex.PW14/DB** which were certified copies were produced during his cross examination. He did not have knowledge of the said applications. He denied the suggestion that the accused persons were picked up at gun point on 11.02.2021 from Guwahati to Mumbai train after their statements were procured after they were tortured. He was not aware whether the wives of the accused persons had registered FIRs in Kerala regarding their alleged illegal detention. CDRs of the accused persons were collected. Only police witnesses were cited as witnesses in the chargesheet.

162. **FIR No. 411/ 2022 dated 24.09.2022** was registered at PS Kharkhauda Meerut, Khand under sections 13(1)(b) of Unlawful Activities (Prevention) Act, 1967 and other provisions of the IPC on the basis of memo of Inspector Anuj Kumar, ATS, UP as per which the UP ATS and other intelligence agencies were receiving information that the PFI and some other Islamic organizations were indulging in anti-national activities with the aim to convert India into an Islamic Nation by 2047. PFI was intending to provoke Muslims to target and kill Hindus and was distributing literature amongst Muslims to invoke feeling of religious Jihad. As per information Maulana Shadab Aziz Kasmi, Maulana Shajid Mufti Shahjad and Mohd Islam Kasmi of PFI were working to strengthen PFI in western Uttar Pradesh. Aim of PFI was to ensure Gazwa-e-Hind in India and to make India into an Islamic nation under Shariya Law by the year 2047 by causing harm to the lives and properties of Hindus and by inciting destructive activities by

training their cadre with weapons and guerilla warfare. All the four accused persons were apprehended and upon interrogation they disclosed that they belonged to PFI and were involved in activities as alleged in the information received. Literature was recovered from the accused persons as per which PFI intended to convert India into an Islamic State by 2047. They intended to create hatred amongst Muslim community against constitutional authorities. They also intended to connect with small organizations of backward class and scheduled caste community. During investigation it was found that members of PFI had incited people to commit violence during 2019-2020 CAA agitation and that the accused persons also disclosed their involvement in the same. **PW-15 Mr. Amit Kumar Rai** is the IO of the case who filed the record of the FIR vide Ex.PW15/B to Ex.PW15/C.

163. PW15 in his cross examination deposed that he was handed over the investigation on 23.10.2022. The literature was seized by Anuj Kumar ATS officer who is the complainant of the FIR. After investigation was handed over he visited the spot and conducted investigation. The four accused persons were apprehended from their homes on 23.09.2022. He then admitted that as per the FIR the accused persons were called on 22.09.2022 to the police station from their homes by the police teams of ATS for interrogation. The literature was recovered from the places pointed out by the accused persons. He recorded the statements of the accused persons after investigation was handed over to him. He denied the suggestion that the literature was fabricated or planted on the accused persons. He denied the suggestion that the case was fabricated by ATS UP for supporting the ban on PFI.

164. FIR No.45/2022 dated 22.09.2022 registered at PS Madyeganj, Lucknow, under sections 121A, 153A of the Indian Penal Code and provisions of Unlawful Activities (Prevention) Act was registered on the memo of Inspector Hemant Bhushan Singh, UP STF as per which information was being received that members of PFI were conspiring to challenge the unity and integrity of the country and to convert India into an Islamic Nation by 2047 and to indulge in religious Jihad towards making Gazwa-e-Hind and increasing population of Muslims in India. The information was developed and further information was received that Mohd Ahmad Baig member of PFI was involved in the same who was then apprehended. Mobile phones, Urdu books and Arabic language books and English document "India 2047 Towards Rule of Islamic India" were recovered from him. His statement was recorded in which the accused disclosed his involvement in the matter. Accused disclosed that he was a member of PFI and was spreading literature and ideology of PFI to convert India into an Islamic State by 2047. CDR of his mobile phone revealed that he was in touch with other PFI members. Bank account statements of the accused revealed transactions with other PFI members. Also recovered from the accused was a book regarding how to make a bomb. **PW-16 Mr. Indra Prakash Singh**, is the IO of the case. He deposed by way of his affidavit Ex.PW16/A and filed the records of the FIR vide Ex.PW16/B and Ex.PW16/C.

165. PW16 in his cross examination deposed that as per the FIR some documents were seized by STF. He himself had seized some documents at the pointing out of the accused. The books had been seized by the ATS. He denied the suggestion that he did not file copies of bank statements as there were no transactions between the accused and the PFI. He denied the suggestion that the literature was fabricated and planted on the accused persons. FIR was lodged on the basis of the written complaint. He denied the suggestion that the complaints were prepared by higher authorities and sent to different parts of UP for registration of FIRs. There was no mention of CFI in the FIR.

166. FIR No.322/2022 dated 23.09.2022 was registered at Kursi, under sections 121A, 120B, 153A, 295A, 505(2) of the IPC and Sections 13 (1)(b) of Unlawful Activities (Prevention) Act on the memo of Inspector Shivnetra Singh, UP STF as per which, secret information had been received by STF regarding members of PFI and other Muslims organizations to divide India into an Islamic State by 2047 by indulging in violence and targeting Hindus. In pursuance of further information, two persons namely Nadeem Ahmad and Kamrudeen were apprehended who admitted that they were members of PFI and were radicalizing Muslims under the guise of PFI to establish Islamic Nation by 2047. Mohd. Nadeem got literature recovered pertaining to re-building of Babri Masjid and also a secret case containing chain folder "Empower India Foundation" with pamphlets relating to demolition of Babri Masjid, its reconstruction and India 2047. Gazwa-E-Hind pamphlet and document regarding converting India into Islamic State by 2047 had been seized. **PW17 Mr. Yogendra Kumar ACP** is the first IO of this FIR who deposed by way of his affidavit Ex.PW17/A and filed the record of the FIR vide Ex.PW17/B to Ex.PW17/C. He deposed that he had recorded the statements of the accused persons and during police custody literature relating to PFI was seized at the pointing out of the accused persons. The Tribunal perused the case diary brought by PW17 which was found to be containing document titled "India 2047 -Towards Rule of Islam in India" and the same was directed to be placed on record vide Ex.PW17/DX. He deposed that Mohd. Nadeem Ansari was working as treasurer of PFI since 2012. Certain literature was recovered by PW17 at the pointing of Mohd. Nadeem Ansari and Mohd. Kamruddin relating to PFI.

167. PW17 in his cross examination deposed that he was handed over the investigation on 23.09.2022 and name of Inspector Jitender was written as IO in the FIR. He deposed that being UAPA matter it could be investigated by officer of rank of DSP. It was correct that accused Mohd. Nadeem Ansari was apprehended from his home at about 7.30 am on 22.09.2022 by the STF team. The document India 2047 Ex.PW17/DX was a computer print out. He denied the suggestion that the same had nothing to do with PFI. He denied the suggestion that the said document was fabricated or that signatures of the accused persons were forcibly taken on the same.



168. **PW-18 is Mr. Rakesh Kumar Sharma**, in-charge in case FIR No.461/2010 dated 20.08.2010 registered at PS Charthawal, under section 153A of the IPC. He placed on record vide Ex.PW18/A which is certified copy of the order the court of Ld. ACJM Muzfarnagar by which accused Athar son of Sh. Akbar had been convicted. Allegation against Athar was of putting up certain posters in the village which had a tendency of disturbing communal harmony. Certified copy of the poster was placed on record as Ex.PW18/B. The poster mentioned Popular Front of India. PW18 in his cross examination deposed that he had filed certified copy of the conviction order. He also filed certified copy of the FIR Ex.PW18/X and chargesheet Ex.PW18/Y. As per the same FIR was for the offence under section 153A of the IPC. Copy of the poster filed before the Tribunal was a certified copy obtained from the court. In the order convicting the accused there was no mention of PFI. Voluntarily he deposed that the same concerned with the PFI as it was mentioned in the poster.

169. FIR No.858/2019 dated 21.12.2019 was registered at PS Chandpur Bijnor, under sections 147, 148, 149, 188, 353, 332, 441, 427, 341, 504 & 506 of the IPC and Sections 2 & 3 and of Prevention of Damage to Public Property Act. The matter pertained to riots which took place during NRC CAA agitation at Chandpur and out of 13 accused persons, one was member of PFI. As per the FIR accused persons were going along with 150-200 persons with sticks, lathi etc in their hands violating section 144 in Town Chandpur. They entered open shops in the market and forcibly got them closed and were destroying electricity meters and public properties. When the police officials tried to control the crowd, they attacked the police team. **PW19 Sanjeev Kumar**, Police Inspector is the IO of the case who tendered his evidence by affidavit Ex.PW19/A and filed the record of the FIR vide Ex.PW19/B to Ex.PW19/G. PW19 in his cross examination deposed that there was no mention of PFI having organized the agitation in the FIR or chargesheet. Voluntarily he deposed that it was there in the statement of accused. He denied the suggestion that the matter has nothing to do with the PFI. Name of CFI and AIIC was not there in the chargesheet or FIR.

170. FIR No.600/2019 dated 19.12.2019 registered at PS Hazratganj, under sections 147, 148, 149, 152, 506, 307, 323, 504, 332, 353, 341, 188, 435, 436, 120B and 427 of the IPC and Sections 3 and 4 of Prevention of Damage to Public Property Act and section 7 of The Criminal Law (Amendment) Act, 1932. As per the FIR, on 19.12.2019, office bearers of PFI had organized a protest at Hazratganj, Parivartan Chowk against NRC and CAA in which 6,000 persons participated. The protest became violent causing injuries to police persons and damage to property. 34 persons were apprehended from the spot. Accused persons Nadeem and Ashfaq stated that they were office bearers of PFI who were arrested on 23.12.2019. Flags, literature, banners, posters, placards, cooperative books were recovered from the accused persons who were the main conspirators. **PW-20 is Mr. Vrijendra Kumar Mishra**, IO of case He tendered his evidence by way of his affidavit Ex. PW20/A and placed on record copy of the FIR, statements of accused persons and copy of chargesheet vide Ex.PW20/B to Ex.PW20/G3. PW20 in his cross examination deposed that as per the FIR protest was organized by several organizations and the arrested persons belonged to them. Voluntarily he explained that during investigation some adhoc committies of PFI were also found involved in the protest which were mentioned in the chargesheet. It was correct that Hindus and Muslims were mentioned in the chargesheet. Accused persons had not been chargesheeted on the basis of the religion. Out of 50 accused persons 3 belonged to the PFI. He had brought the case diary containing the statements of police witnesses which was taken on record. He denied the suggestion that S.R. Darapuri was not connected with the PFI as his organization All India People Front was affiliated to the PFI. He denied the suggestion that the protest was not organized by PFI or that it was a spontaneous protest against CAA and NRC. It was correct that no charge under section 153A, 153B IPC or UAPA had been made.

171. FIR No.677/2022 dated 02.10.2022 registered at PS Kotwali Nagar, District Ayodhya, under sections 121A, 153A, 295A of the IPC and Sections 13(1) (B) of UAPA. As per the FIR information was received that PFI and other national organizations were conspiring to divide India into an Islamic Nation by targeting Hindus and indulging in violence. In pursuance of further information accused Mohd. Zaid was apprehended from whom mobile phone, Aadhar card etc were recovered. From a bag in his possession literature India 2047 Towards Rule of Islam in India, pamphlets photographs and paper written in Urdu were recovered. He admitted that he was involved in anti-national activities and that he was member of PFI for six months and that he was distributing pamphlets in Muslim settlements on request of office bearers of PFI. **PW-21 is Mr. Shailender Singh**, IO of the case and tendered his evidence by way of his affidavit Ex. PW21/A and placed on record copy of the FIR Ex.PW21/B. He also filed two samples copies of seized pamphlets Ex. PW21/D (colly.) containing appeals to Muslim persons with the name and mobile number of accused Mohd. Zaid on the same. He deposed that the accused used to go to villages for distributing pamphlets inciting Muslims to increase their population, divide the country, propagate hatred against police and military and to convert the nation into Islamic Nation by 2047.

172. PW21 in his cross examination denied the suggestion that the FIR was fabricated after the notification dated 27.09.2022 to increase the number of cases against PFI to prejudice the Tribunal. He denied the suggestion that the accused had no connection with the PFI. Investigation regarding source of pamphlets was continuing. Mobile no.8604147759 was of accused Zaid Mohd. The complainant of the case was the police officer. There was no mention of the CFI in the documents filed by him.

173. FIR No.249/2020 dated 07.08.2020 registered at PS Kursi, under section 153A of the IPC. In the FIR the allegations were that accused person Mohd. Nadeem who was associated with the PFI was spreading propaganda about Ram Mandir being built at Ayodhya on the land of Babri Masjid to create communal disharmony and tension



and that he was carrying flags and placards of PFI. **PW-22 is Mr. Ashok Kumar Verma**, the IO of the case who tendered his evidence by way of his affidavit Ex. PW22/A. He placed on record copy of the FIR Ex.PW22/B and statements of witnesses as Ex.PW22/D and of the chargesheet Ex.PW22/F. He further deposed that in a case registered in 2019 at Lucknow, the accused Mohd. Nadeem was found to be associated with the PFI. PW22 in his cross examination deposed that association of the accused with the PFI was in the statements of the witnesses. He denied the suggestion that he had falsely deposed that the witnesses had seen accused persons carrying flags and placards of PFI. There was no material against the CFI.

174. FIR No.112/2022 dated 24.09.2022 was registered at PS Adampur, Varanasi, under sections 121A, 153A, 295A, 109, 120B of the IPC and Section 13 of Unlawful Activities (Prevention) Act on the memo of Bharat Bhushan Tiwari, Inspector, UP STF as per which information was received about some members of the PFI and other Muslim organizations aiming to convert India into an Islamic State by 2047 by targeting Hindus through violence and spreading propaganda. Controversial issue of Nupur Sharma was also being spread to create communal disharmony. Accused Mohd. Shahid and Rizwan Ahmad were apprehended by the STF who admitted that they were members of the PFI and were radicalizing Muslim youth through propaganda. Objectionable material was recovered from them including pamphlets, booklets, pen drive, documents related to PFI including booklet titled "An e-shield of a Muzahidin in Jihad fi Sabeellahi". Accused persons during interrogation disclosed that they were associated with PFI. **PW-23 is Mr. Praveen Kumar Singh**, the IO of the FIR who tendered his evidence by way of his affidavit Ex. PW23/A and placed on record copy of the FIR as Ex.PW23/B with its English translation and copies of the documents recovered at the instance of the accused persons Ex.PW23/D (colly.). The same includes document India 2047, Towards Rule of Islam in India, MAY OUR MOTHERS BE BEREAVED OF US, IF WE FAIL TO DEFEND OUR PROPHET, O MUSLIM YOUTHS! PAY THE DUES OF SHATIM-E-RASUL, VOICE OF HINDI, SO WHERE ARE YOU GOING etc.

175. PW23 in his cross examination deposed that the documents Ex.PW23/D (colly.) were not recovered in his presence. Recovery of objectionable material from the accused was sufficient to show their association with the PFI. It was correct that accused persons were apprehended from their homes on 22.09.2022 by the ATS teams. He denied the suggestion that the literature recovered from the accused persons had been fabricated and planted upon them. As of then there was no material against the CFI.

176. **PW-24 is Mr. Rajiv Singh** who is the in-charge of FIR No.362/2019 dated 20.12.2019 registered at PS Babu Purva, Kanpur, under Sections 109,147,148,149, 353,332,34,427,336,506,188 & 307 of the IPC and section 7 of Criminal Law (Amendment) Act, 1932, and section 3 & 4 of Prevention of Damage to Public Property Act and Section 27 of Arms Act. He tendered his evidence by way of his affidavit Ex. PW24/A and placed on record copy of the FIR Ex.PW24/B, translated copy of FIR Ex.PW24/C, statements of witnesses and accused persons Ex.PW24/D (colly.) and copy of the chargesheet PW24 deposed that 35 persons were chargesheeted out of whom five were members of PFI who were found to be in touch with office bearers of PFI. In cross examination PW24 deposed as correct that FIR did not mention that PFI organized the protest. He denied the suggestion that the protest had nothing to do with the PFI. He denied the suggestion that accused persons did not give any statement to the police. He denied the suggestion that there was no material against the CFI.

177. FIR No.1132/2019 dated 20.12.2019 registered at PS Kotwali City, Bijnor under Sections 147, 148, 149, 332, 336, 436, 352, 353, 307, 153A, 295A and 120B of the IPC, Section 7 of the Criminal Law Amendment Act, 1932 and Section 3 of the Prevention of Damage to Public Property Act, 1984. As per the FIR information was received that on 20.12.2019 there will be a demonstration after Friday prayers regarding CAA. After Friday prayers the police force deployed appealed to the worshipers to go to their respective homes after the prayers. However information was received that some persons were leading 300-400 boys in front of Idgah Bagahi protesting against CAA and NRC. Police force requested the crowd not to proceed but they became violent and attacked the police force. Crowd of 5000 persons gathered who surrounded the police force with weapons. Warning shots were fired by the police. Motorcycles of police officers were set on fire. Four persons were arrested with the help of additional police force. As per the FIR a crowd of Muslim persons had gathered outside Jama Masjid Mohalla Chahgiri after namaz and were protesting against CAA. Police persons tried to pacify the mob but they turned violent and started indulging in vandalism and stone pelting. They set fire to vehicles on the road side, houses, shops and government hoardings. The mob then reached toward roadways bus stand Tiraha under the leadership of Javed Aftab, his brother Parvez Aftab and others. The mob attacked the police force with illegal weapons, stones and petrol bombs. With the help of additional force 33 persons were apprehended. **PW-25 Mr. Ravindra Kumar Verma**, the IO tendered his evidence by way of his affidavit Ex. PW25/A and placed on record copy of the FIR Ex.PW25/B, its translated copy Ex.PW25/B, certified copies of statements of the accused persons recorded by him Ex.PW25/D and copy of the chargesheet Ex.PW25/F. PW25 deposed that accused persons in their statements admitted to be members of PFI and they had gathered the crowd for protesting against CAA and NRC. The accused persons visited Shahin Bagh Delhi to collect funds.

178. PW25 in his cross examination deposed that he had not filed the list of witnesses. He denied the suggestion that he did not do so as his name was not mentioned in the same. He denied the suggestion that he was incompetent to depose before the Tribunal about the case. There were two other cases relating to NRC and CAA but this was the main case. There were about 60 accused persons common to all the FIRs. He denied the suggestion that he had not recorded

statements of all accused persons and for this reason he had not produced the same. He denied the suggestion that the statements of accused persons were fabricated by him.

179. **FIR No.199/2020 dated 07.10.2020 PS Maant, Mathura under Sections 153A, 295A, 124A of the IPC and Sections 17 and 18 of the UAPA** was registered with the allegation that Atiqur Rehman, Aalam, Siddique Kapan and Masood Ahmad after hatching a conspiracy were going to Hathras to create enmity between different groups of persons on the basis of race and religion under the guise of visiting Hathras wherein an unfortunate incident had taken place. These persons had a website cardd.co with the intention of provoking riots, law and order disturbance on the grounds of caste, religions etc. The website had antinational propaganda relating to incidents of mob lynching and supporting separatist elements in Kashmir. It had received donations from foreign countries. Mobile phones seized from the accused persons revealed that they were in touch with Danish and Rauf Sherif of PFI. As well as OMA Salam, P. Koya, E.M Abdul Rahman, Anish Ahmad, Mohammad Abid, Kamal K.P, Salim etc. Atiqur Rahman was member of CFI and closely associated with M.S. Sajid and K. A Rauf Sherif of CFI. Siddique Kappan worked as Journalist for Tejas, the mouth piece of PFI, Masood Ahmad was member of CFI who had been asked to go to Hathras by Rauf Sherif of CFI and had received payments from PFI. Alam had joined PFI at the instance of his brother Danish who was Ward President of PFI. Rauf Sherif was member of CFI since 2013 and used to collect funds from gulf countries. PFI used to prepare hit squad and that AnsaBadrudeen and Feroz were members of PFI.

180. **PW-26 Mr. Sachin Kumar** was Co-Investigating Officer of the FIR. He tendered his evidence deposed by way of his affidavit Ex. PW26/A. He placed on record copy of FIR No.199/2020 vide **Exhibit PW26/B**, certified copy of the Case Diary vide **Exhibit PW26/C**, sanction order dated 31.03.2021 with corrigendum dated 06.04.2021 as **Exhibit PW26/D (colly.)**, certified copy of charge sheet vide **Exhibit PW26/E** and copy of order on charge vide **Exhibit PW26/F**. He deposed that investigation revealed that the accused persons conspired to incite disharmony amongst dalit community by inciting feelings of resentment. WhatsApp mobile data of accused Siddique Kappan and Rauf Sherif revealed that in September 2020 a secret workshop was conducted by PFI for committing violent incidents under the guise of class conflicts in UP and in pursuance of the said meeting Siddique Kappan had travelled to Hathras. PFI had deposited money in the accounts of the accused persons for funding their activities. Rauf Sherif had received funds from foreign countries which was transferred to PFI and CFI. During investigation posters of CFI were recovered from the office of PFI which showed that a common leadership was controlling both the organizations. During search from the house of Siddique Kappan a booklet was found which contained reasons for banning of SIMI and steps to be taken to avoid such ban. The booklet was in the form of interview of SIMI members which showed the ideology of SIMI –India's Liberation Through Islam Only. The document also revealed that SIMI had invited representatives of Palestine Terrorist Organization HAMAS to India and in the meeting slogan coined was – Welcome Gazni Babri Masjid is awaiting.

181. PW26 in his cross examination deposed that he did not remember the date on which investigation was handed over to him. He denied the suggestion that the website cardd.co was fiction. He did not know its IP address but deposed that as per investigation it had been created by an American company and the website was closed on 04.10.2020. The company did not give details regarding date of hosting of the website. He denied the suggestion that the said website was hosted and closed on 04.10.2020 itself. He denied the suggestion that he had not participated in the investigation. It was correct that no terrorist act had taken place. He denied the suggestion that the mobiles seized were not sent for forensic examination. He denied the suggestion that none of the accused persons had any mobile phone with them. He denied the suggestion that Atiqur Rehman never stated that he was member of PFI or that there was no document to show that accused Aslam and Danish were associated with the PFI. Pamphlets and flags of CFI were recovered from the office of Rauf Sherif. He denied the suggestion that the accused AnsaBadrudeen, Rauf Sherif and Feroz Ahmad were never associated with PFI or CFI. He denied the suggestion that accused persons gave any voluntary statements. He denied the suggestion that no digital document was recovered from the accused persons. The book India's Liberation Through Islam only was recovered from the room of accused Siddique Kappan and from his laptop in word format. It was correct that no weapon was seized but he voluntarily stated that two accused persons in this case were apprehended in Lucknow with weapons for which separate FIR was registered. He did not investigate the Hathras case. He denied the suggestion that this FIR was registered to divert attention of the public from the Hathras case. He denied the suggestion that the books recovered were available in social media.

182. **PW-28 is Mr. Rakesh Kumar Paliwal, DSP (retd.)** who was the IO along with Inspector Sachin Kumar of FIR No.199/2020 dated 07.10.2020 registered at Police Station Maant, Mathura. He had recorded the statements of the accused persons namely Atiqur Rehman, Siddique Kappan, Alam and Masood vide **Ex.PW26/C** which were in parcha number (CD Number) 25A in Ex.PW26/C. **PW-29 is Mr.Vinod Singh Sirohi, DSP (retd.)** who was the IO of FIR No.199/2020 dated 07.10.2020 registered at Police Station Maant, Mathura from 12.01.2021 to 30.04.2022 and the chargesheet was filed by him. He recorded the voluntary statements of accused persons Rauf Sherif, Danish, Feroz and AnsaBadrudeen which were part of CD **Ex.PW26/C**.

183. PW28 in his cross examination deposed that accused persons were arrested on 05.10.2020. Other police officers of PS Maant had also interrogated them. He did not remember the date when he himself interrogated the accused. Lawyers had appeared for the accused persons in the court. The recording of statements of the accused were not audio and video recorded. He denied the suggestion that the statements of the accused were fabricated. Prior to

handing over of investigation, statements of the accused had been recorded. He denied the suggestion that the said statements had not been produced as they were contrary to the other statements. He had gone to the office of CFI at Shaheen Bagh but it was found locked. This fact was found recorded in the CD Ex.PW26/C Diary no.26 dated 05.11.2010.

184. PW29 in his cross examination deposed that he could not remember the dates when the accused persons were arrested. Earlier statements of Rauf Sherif and Ansaad Badrudeen were recorded by the STF. Statements of other accused were recorded by him. He denied the suggestion that no precautions were taken to secure interest of accused persons while recording their statements. The same were not audio / video recorded. He denied the suggestion that the statements of the accused persons were fabricated.

#### **UNION TERRITORY OF PUDUCHERRY**

185. Cr. No.221/2022 u/s 153-A, 120(B), 505(1)(c), 505(2) IPC & 13(1)(b) of Unlawful Activities (Prevention) Act, 1967, dated 22.09.2022 of Town PS, Karaikal District, Union Territory of Puducherry was registered on the special report of Gandhi @ Gunasekaran SI about cadets of SDPI / PFI having entered into criminal conspiracy for promoting enmity between different groups on the grounds of religion by circulating and publishing statements through social media. Raids were conducted in Karaikal at various places leading to recovery of documents, pamphlets, books, electronic documents, gadgets and cash from the houses of supporter of PFI namely Mohamed Hasan Khtous @ Kuthous @ Thuyavan, Mohammed Bilal Maraikayar and H. Badrudeen. Interrogation of the three accused persons revealed that they were involved in criminal conspiracy to commit the said offences. All the three accused persons were members of PFI and supporters of SDPI. Their disclosure statements were recorded. Police custody of the three accused persons was granted by the court and their interrogative statements were recorded. Chargesheet has been filed before the Court where the trial is pending. **PW39 R. Marie Christian @ Paul** was earlier IO of the FIR who tendered his evidence by way of affidavit **Ex.PW39/A** and filed on the record copy of the FIR along with complaint vide **Ex.PW39/A1**, copy of Memo of Arrest and Arrest Form of the accused persons A1, A2, A3 vide **Ex.PW39/A2(colly.)**, copies of Confession Statements of the accused persons A1, A2 & A3 and English translations vide **Ex.PW39/A3(colly.)**, copies of Form-95 and Property Seizure Forms along with list of articles vide **Ex.PW39/A4(colly.)**, copies of Crime Detail Forms (SOCs No. 1 to 4) vide **Ex.PW39/A5(colly.)**, copy of DVD along with 65-BCertificate vide **Ex.PW39/A6**, true copies of Crime Detail Forms (SOCs No. 5&6) vide **Ex.PW39/A7(colly.)**, copy of Order of police custody, vide CrI. M.P. No. 316/2022 dated 12.10.2022 of the District Sessions Judge Court, Karaikal vide **Ex.PW39/A8**, copies of Interrogative Statements of the accused persons A1, A2 & A3 **Ex.PW39/A9 (colly.)**, copies of witness statements vide **Ex.PW39/A10 (colly.)**. **PW40 is Mr. K. Shanmugam** was the IO of the FIR in Cr. No.221/2022 and he tendered his evidence vide affidavit **Ex.PW40/A**. He filed on record the copy of Photo Printouts vide **Ex. PW40/B**, Copy of Order No.656/JUD District Court/ Karaikal/ 2022, dt. 14.11.2022 of the District & Sessions Judge Court, Karaikal vide **Ex. PW40/C**, Copies of witness statements **Ex. PW40/D (colly.)**

186. PW39 in cross examination denied the suggestion that the contents of the affidavits were false. The informant was a police officer. Part of the case was registered on posts made in social media. PW39 denied the suggestion that the same were not connected to the accused persons. PW39 denied the suggestion that the mobile phones and laptops were planted upon the accused persons or that the statements were fabricated. PW40 in his cross examination denied the suggestion that he had filed false and fabricated chargesheet without conducting any investigation. He denied the suggestion that the posts were uploaded on Facebook and WhatsApp by fundamentalists against the PFI.

#### **STATE OF NCT OF DELHI**

187. IO of FIR No.355/2022 dated 29.09.2022 registered at P.S. Shaheen Bagh, South-East Delhi under Sections 120B/153A of the Indian Penal Code and Section 10 of the Unlawful Activities (Prevention) Act pertaining to continuation of PFI and related organizations even after imposition of the ban. Raids were conducted at the offices of PFI, Rehab India Foundation and AIIC in Shaheen Bagh. Rehab India Foundation was found to be maintaining its office at N-44, Ground Floor, Second Stage, Hilal Homes, Abul Fazal Enclave –I, New Delhi. AIIC was found running its office at B-27/2, 3<sup>rd</sup> Floor, Thokar No.7, Shaheen Bagh New Delhi which had been taken on rent by Mohd. Faizal Charath of Kerala. He is the member of AIIC. PFI was found running its office at F-30, Shaheen Bagh, Abul Fazal Enclave –II, Jamia Nagar, New Delhi. During raid conducted at premises of Rehab India Foundation and AIIC, seizures were made on 30.09.2022. PAN card of PFI, communications of PFI with Income Tax department and vouchers of PFI were recovered from Rehab India Foundation office. Receipt book/ cash / credit bill book issued in the name of Empower India Press, some letter heads in the name of Empower India Foundation and one poster were found from the office of AIIC. During investigation Sohaib, Md Habib Asgar Jamali, Abdul Rab, Warish Khan, Abdulla, Mohsin, Md Sohaib, Sheikh Gulfam Hussain were arrested and six accused persons were in touch with Mohd Parvez Ahmad Delhi State President of PFI and Abdul Muqueet Office Secretary of Delhi PFI. Two accused persons Sohaib and Habib Asgar Jamali had been previously arrested on 03.06.2022 when they were protesting against attachment of accounts of PFI. Sohaib disclosed that he was State Secretary of NCHRO and his visiting cards were recovered. He disclosed that PFI had engaged him to work with NCHRO and CFI. **PW-79Mr. Joginder Singh Joon**, Assistant Commissioner of Police, Badarpur is the IO of the case who tendered his evidence by way of

affidavit **Ex.PW79/A**. He filed copy of the FIR along with certificate under section 65B of the Indian Evidence Act **Ex.PW79/B**, copy of the HDFC Bank Account Opening Form and Telephone Bill **Ex.PW79/C**, copy of Rent Agreement dated 03.12.2021 along with incorporation / registration documents of AIIC **Ex.PW79/D (colly)**, copy of Certificate of Registration No. S/226/District South/2010 dated 16.11.2010 and copy of Lease/Rent Agreement dated 26.07.2022 **Ex.PW79/E (colly)**, copy of wireless message from the DCP Special Branch of anticipated demonstration and consequent detention details vide General Diary dated 03.06.2022 **Ex.PW79/F (colly)**, copy of visiting card recovered **Ex.PW79/G**.

188. PW79 in his cross examination deposed that the FIR was registered after the ban notification. He denied the suggestion that it was done to justify the ban. He denied the suggestion that documents had been collected before registration of the FIR and planted upon the accused. He denied the suggestion that AIIC was not running any office at Shaheen Bagh. He denied the suggestion that CFI and AIIC had no connection with PFI. He did not know how many lawyers were associated with the NCHRO. He had not filed seizure memo regarding documents seized from the office of RIF in the Tribunal. He denied the suggestion that office of RIF was sealed on 28.09.2022. He had seized materials like bill book, cash book in the name of Empower India Press and receipt book in the name of Empower India Press. He had seized letter head of EIF. He denied the suggestion that the same were fabricated.

### **STATE OF ANDHRA PRADESH**

189. **Cr.No.358/2015 u/s 143, 153, 188, r/w 149 IPC of Nandyal II Town PS**, AP registered on the complaint of S.K. Nazir Hussain. As per the same on 28.12.2015, section 30 of the Police Act was imposed in Nandyal Town. During that time activists of PFI and SDPI conducted a motorcycle rally and raised slogans – “SDPI and PFI Jindabad and BJP, RSS, VHP, down down”. They moved through the town and then conducted a public meeting at Sports Authority Stadium of Nandyal Municipality. The accused persons gave speeches against Hindu religion and made statements related to Babri Masjid, Godhra to provoke enmity between Hindus and Muslims. 13 accused persons were found involved namely Darga Syed Habibulla SDPI State President, M. Abdul Rasheed, PFI State President, Shaik Attar Jamshed Basha, Sheik Hussain Peera, Shaik Ekbal Basha, Mulla Jakeer Hussain, Shaik Dada Basha, Shaik YousuffAhammed @ Yusuf Basha, Shaik Masthan Vali, Monin Basha @ Mohammad Couse, S.A. Sameer, Shaol Mahabob Basha, Desai MohammedFazil. PW-92 Mr. N.Mohan Reddy, was the IO of the case who tendered his evidence by way of affidavit **Ex.PW92/A**. He placed on record copy of FIR No. 358/2015 dated 28.12.2015, u/s 143, 153, 188 r/w 149 IPC of Nandyal II Town PS, AP vide **Ex.PW92/B (colly)**, Certified copy of statements of six eye-witnesses **Ex.PW92/C (colly)**, Certified copy of the site plan indicating scene of offence vide **Ex.PW92/D**, Certified copy of the charge sheet filed in the matter vide **Ex.PW92/E**.

190. PW92 in his cross examination deposed that sanction order was not filed with the chargesheet. He denied the suggestion that he had no knowledge of the contents of the chargesheet or that the FIR was concocted.

### **STATE OF KERALA**

191. Crime No. 425 of 2022 was registered by South Police Station, Alappuzha on 23-05-2022, for offences punishable under sections 153A, 293A, 505(1)(b), 505(1)(C), 505(2), 506, r/w section 149 of, the Indian Penal Code and Section 75 and 83(2) of Juvenile Justice Act and also Section 120(0) of Kerala Police Act of 2012 was registered in respect of raising of provocative and hateful slogans at a massive public rally organized by the PFI with a potential to disturb peace and communal harmony in Irumbupalam, Alappuzha, Kerala on 21.05.2022. PW-99 Mr. N.R. Jayaraj Deputy Superintendent of Police, Alappuzha tendered his evidence by way of affidavit **Ex.PW99/A**. He filed certified copy of the FIR **Exhibit PW99/B** including English translation of the objectionable slogans being raised by the child in the PFI rally, copies statements of accused **Exhibit PW99/C (colly)**, copy of the visual description mahazer **Exhibit PW99/D**. PW 99 produced video footage of the PFI rally on a pen drive **Exhibit PW99/E** containing downloaded video in MP4 file **Ex.PW99/E1** of chanting of slogans by a child in the PFI rally from the web link mentioned in the FIR with certificate under section 65B of IEA **Ex. PW99/E3**. The pen drive also contained another video file no.00003.MTS **Ex.PW99/E2** of duration 11 minutes 46 seconds of the PFI rally organized by PFI recorded by hired police photographer Pramod Kumar along with certificate under section 65B of IEA **Ex. PW99/E4**. Both the videos were played in the Tribunal.

192. PW99 in his cross examination deposed that no violent act took place in the rally which was conducted after police permission. The rally had about one lac persons. No person is seen carrying lathis or arms. The transcript of the slogans do not contain word PFI and the same does not directly refer to Hindus and Christians. He had not written to Times Now for supplying authenticated copy of the video. Complaint was filed two days after the rally by ABVP, an associate of BJP. The video had been sent to FSL but report was yet to be received. No date is mentioned in the confession statement. Voluntarily he explained that the date would be mentioned in the case diary. He denied the suggestion that father of the child was not member of the PFI. Father of the child had tutored the child. He was not aware whether after a few days PFI had denied associations with the slogans.

193. C.R.No. 318 of 2022 was registered at the Town South Police Station, Palakkad on 16-04-2022. The FIR was registered for the offences punishable under sections 143, 147, 148, 449, 302, 341, 120B, 201, 212, 109, 118, 119, 34 r/w 149 IPC & 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988. This case was

pertaining to an incident which took place on 16.04.2022 at about 1.00 pm at Pallippuram, Melamuri, Palakkad in which six accused persons belonging to PFI had committed the murder of RSS/ BJP activist Sreenivasan with use of deadly weapons like swords after coming to his shop on three motorcycles. The deceased received fatal injuries on his head and other parts of his body. The murder was carried out by PFI members out of political enmity pursuant to murder of PFI activist Subair of Elappully. PW-100 Mr. Anil Kumar former DySP, Narcotic Cell, Palakkad Distt. was the IO of this case. He tendered his evidence by way of affidavit **Ex.PW100/A**. He filed on record copy of the FIR **Exhibit PW100/B**, copies of witness statements recorded by him vide **Exhibit PW100/C (colly.)**, copies of voluntary statements of the accused persons recorded by him vide **Exhibit PW100/D (colly.)**, copies of list of seizures effected vide **Exhibit PW100/E (colly.)**, copies of relevant documents seized during seizures showing the connection between the accused and the banned outfits vide **Exhibit PW100/F (colly.)**, copy of order dated 03-11-2022 passed in Criminal Misc. Petition No.3725 of 2022 in Sessions Case No.982 of 2022 & order dated 08-11-2022 passed in Criminal Misc. Petition No.3956 of 2022 and 4070 of 2022 and copy of the charge sheets **Exhibit PW100/H**. He deposed that the case was being further investigated by the NIA.

194. PW100 in his cross examination denied the suggestion that the seized documents were fabricated or that accused persons had not made any confessional statements. It was correct that as per investigation, murder in the current case was in retaliation of murder of Subair. He denied the suggestion that PFI was not aware of the incident. He denied the suggestion that PFI could not be held responsible for the incident.

### **CENTRAL GOVERNMENT WITNESS**

195. PW-98 Mr. Dharmender Kumar Deputy Secretary Ministry of Home Affairs, 82A, North Block, New Delhi. He tendered his evidence by way of affidavits **Ex.PW98/A and Ex.PW98/A1**. He filed on the record copy of the gazette notification dated 27.09.2022 and published in the official gazette on 28.09.2022 vide **Exhibit PW98/B**, copy of the gazette notification dated 06.10.2022 published in the official gazette vide **Exhibit PW98/C and** copy of Background Note in respect of the PFI and its associates vide **Exhibit PW98/D**. He deposed that the notification dated 27.09.2022 was based on information and material received from intelligence and investigation agency of Centre and States with regard to the unlawful activities of PFI and its associates or fronts who operate secretly and were attempting to cover up their illegal activities by putting forward a false picture of being law abiding organizations. He deposed that relevant records including information from intelligence and investigation agencies about the unlawful activities of PFI etc were compiled on the basis of which a note was prepared and sent for consideration of the Cabinet which took a decision and approved the proposal contained in the note in its meeting held on 25.09.2022 in pursuance of which notification dated 27.09.2022 was issued. Thereafter this Tribunal was constituted under section 4 of the UAPA to which a Background Note along with Annexures had been submitted. He deposed that the inputs revealed that the PFI and its associates or fronts or affiliates were indulging in unlawful activities. He deposed that several witnesses had already produced evidence on behalf of the Central Govt in support of the declaration contained in notification dated 27.09.2022. As per inputs from Central and State intelligence and investigation agencies, PFI and its cadres had been repeatedly engaging in unlawful activities which are prejudicial to the integrity, sovereignty and security of the country. The PFI had carried out several violent acts including murders by targeting prominent people and places and indulged in destruction of public property. PW 98 placed on record in sealed cover original files containing intelligence reports / inputs from Central Investigation and Intelligence agencies and inputs from various States containing intelligence information along with CDs in sealed cover for the perusal of the Tribunal. PW100 claimed privilege in respect of the said confidential documents and deposed that it was against public interest to disclose the same either to the banned associations or any third party.

196. PW 98 was subjected to extensive cross-examination. PW 98 in cross examination deposed that Cabinet note contained all the brief facts which had annexures. It was prepared on the basis of inputs received by the Central Govt from investigating and intelligence agencies and it contained brief background, gist of cases, justification, analysis and assessment by MHA. It contained all information relating to activities of PFI and its associates. As the Cabinet note is a secret note, he could not disclose its contents. Preparation of the Cabinet note started 15 days prior to 25.09.2022. Ministry of Law gave an opinion in writing on the Draft Cabinet note which was placed before the Cabinet. Date of notification was not mentioned in the Cabinet note or in the Draft notification. He deposed that there were reports containing unlawful activities of PFI and others associations from several States but specific recommendations were given by three States. He denied the suggestion that the timing of the ban on PFI had been dictated in large measure by the need of the BJP to divert attention from the grave charges of corruption against the current BJP Chief Minister and his government in Karnataka.

197. PW 98 in cross examination deposed that the list of persons / organizations to whom notices were issued by the Tribunal was based on information received from the States and the Central Agencies. He then again said that his division did not submit any such list of persons / organization to the Tribunal. He deposed that the Tribunal gave the notices and they circulated it to all the States. Regarding information of the cases enumerated in Annexure III of the Background Note, he deposed that their division keeps receiving regular inputs from the State Govt and the Central Agencies. The data mentioned in Annexure III was available when it was decided to ban PFI. He deposed that the inputs mentioned in para (iii) in the notification dated 27.09.2022 were incorporated on the basis of inputs received from the States which are treated as verified. He admitted that as per certified copy of judgment in Sessions Case

No.75/2017 and 109/2017 the accused persons were acquitted. He denied the suggestion that the contents of the para (iii) of the notification dated 27.09.2022 was a list of random incidents of physical violence wrongly attributed to PFI or its members. He denied the suggestion that the list of cases comprising Annexure-III to the Background Note was full of unverified cases which do not establish any link between the cases and the PFI.

198. PW 98 in cross examination denied the suggestion that the aims and objectives of PFI are clearly defined and there is nothing covert or subversive about them or that the PFI works for the well being and uplift of all marginal and deprived sections of society and does not discriminate on the basis of religion, caste, creed or community. He denied the suggestion that as part of its charitable and philanthropic activities of the PFI has served thousands of the people across the country. He denied the suggestion that PFI relies solely upon contribution and support of its members and individual sympathisers or that all donations to the PFI have been received against proper receipts and the accounts of the PFI have been duly audited and reported to relevant statutory authorities. He denied the suggestion that the Central Govt allegations that PFI is indulging in “unlawful activities”, and activities that are aimed at “undermining the concept of democracy”, and which show “sheer disrespect to the constitutional authority and constitutional set up of the country” completely lack, factual foundation or basis.

199. PW 98 in cross examination deposed that PFI has created several organizations including those specifically mentioned in the notification for increasing its reach among masses, for collecting funds and masking its unlawful activities and that all the other organizations are part of PFI and they have received inputs regarding activities of PFI and its associates organizations. He could not state the number of members and office bearers of CFI and AIIC, as they were secretive organizations. He did not remember even a single member/office bearer name of CFI and AIIC. He deposed that linkage of PFI and its associates, affiliates, fronts including CFI and AIIC have brought out in the background note and contained in the documents provided in the sealed cover to the Tribunal. On the question whether there any discussion in respect of the effect and consequences on the fundamental rights under Article 19 and 21 of the Constitution, he deposed that the draft cabinet note was prepared in consultation with Ministry of Law and Justice which has examined all such aspects. He denied the suggestion that no input was received from any State about linkage of CFI and AIIC with PFI. No letter was sent to the IOs or the State/Central Agency for sending the records of the cases against CFI and AIIC.

200. PW98 in cross examination deposed that designation of Deputy Secretary is below the rank of Joint Secretary under MHA. He denied the suggestion that he was not competent to depose before the Tribunal as per section 2(e) of UA(P) Act and Authentication of (Orders and other Instrument) Rule 2002. He denied the suggestion that the background note was developed after the ban notification for justification of the ban. He denied the suggestion that NCHRO is a Non-Profit and Non-Political umbrella body for various Human Rights and Civil Rights organizations and activists in India. He deposed that inputs were received from intelligence agencies regarding NWF reflecting its linkages with PFI. There was no material directly against NWF. None of the cases in Annexure I were against NWF or its members. He denied the suggestion that NWF was a lawful organisation with lawful aims and objectives of women's empowerment, womens rights advocacy, education of women and raising awareness on socio and cultural issues pertaining to women.

201. PW98 in cross examination denied the suggestion that Empower India Foundation and its office bearers were not associated with or affiliated to PFI. He denied the suggestion that Notification dated 27.9.2022 was never served on the Empower India Foundation or its office bearers at any stage. He denied the suggestion that Empower India Foundation and its office bearers were never involved in any unlawful activity or terrorist act at all. He denied the suggestion that idea of Empower India Foundation is to assist and enlighten the marginalised and backward communities,, especially Muslims, who due to their pathetic socio-economic and educational backwardness and hardships in life are otherwise staying outside the mainstream social structure, about their constitutional and legal rights and thereby to uplift them and to strengthen the nation building and development process. He denied the suggestion that his statements against Empower India Foundation and Rehab Foundation Kerala to the effect that inputs were received showing unlawful activities are false and fabricated. He deposed that they had received inputs from central and state agencies regarding unlawful activities of PFI and its associates/affiliates/fronts and that the material against Empower India Foundation and Rehab Foundation Kerala was part of the sealed envelope which he had submitted to the Tribunal.

It is pertinent to mention that during the hearings at Chennai, Bengaluru and Delhi some public persons appeared for and against the banned organizations. Certain affidavits were also filed by them. However they never came forward to depose and hence such affidavits cannot be considered.

#### **SUMMARY OF EVIDENCE LED ON BEHALF OF THE RESPONDENTS / ASSOCIATIONS**

202. **RW-1 is Mr. Lambert C D Solomom an erstwhile office bearer of NCHRO.** He tendered his evidence by way of affidavit **Ex.RW1/A.** He filed on record images depicting the social work and activities conducted by NCHRO vide **Exhibit RW1/B (colly.),** details of Founders of NCHRO and the description of their work done vide **Exhibit RW1/C (colly.),** Report by NCHRO on Impact of Covid-19 on Indian Society vide **Exhibit RW1/D,** Certificate U/s 65-B IEA vide **Exhibit RW1/E.** In his affidavit he deposed that the contents of the notification dated 27.09.2022 and Background Note were denied. The ban imposed upon NCHRO was without verifying real facts. The

NCHRO is a non profit non political umbrella for various human and civil rights organizations and activists in India. NCHRO had been providing legal assistance to different classes of the society for the past three decades. The contents of the affidavit of RW1 are basically a reproduction of its objections which have been referred in detail and are not being repeated herein for the sake of brevity.

203. In cross-examination RW 1 deposed that before the organization was banned he was the President of Goa Chapter of NCHRO and he was also part of the National Executive of NCHRO. Office bearers of different States were different persons and they had a National Executive. He denied the suggestion that he had not filed the list of office bearers as it would have exposed their link with the PFI. He deposed as correct that Mr. K.P. Mohd Sharif is General Secretary of NCHRO. He was not aware about Campus Front of India. He had never attended any meeting of Campus Front of India. He was not aware if Mr. K.P. Mohd Sharif attended meeting of CFI as representative of NCHRO. He deposed that there may be a possibility that some office bearers of PFI and NCHRO may be common but he was not aware about any specific names. He identified the photograph image 5 of person encircled as mark A on page 10 of his affidavit to be that of Professor Marx, photograph image 8 of the person encircled as mark B on page 12 to be that of Reny Ayline. He could not recognize photograph image 6 of the person encircled as mark D on page 11. He denied the suggestion that these persons were members and office bearers of PFI and its affiliates.

204. **RW-2 is Mr. Mohammad Faisal Charath who is the erstwhile General Secretary of All India Imams Council.** He tendered his evidence by way of affidavit vide **Ex.RW2/A**. He placed on record copy of the Registration Certificate of AIIC vide **Exhibit RW2/B**, copy of the Memorandum of Association of All India Imams Council filed before the society of Registrar, Delhi alongwith list of office bears prior to notification i.e. 27.09.2022 vide **Exhibit RW2/C**, photographs of some of instances of relief and social work organized and executed by the volunteers of All India Imams Council vide **Exhibit RW2/D**, copy of ITR of the year 2020-2021 vide **Exhibit RW2/E**. He deposed that the Background Note was baseless and that the cases mentioned in the Annexures with the Background Note were false. The grounds contained in the notification for imposing ban were incorrect. He deposed that he was called on mobile by Kochi office of NIA to enquire about the purpose of my appearance before the Tribunal. The contents of the affidavit of RW2 are on the lines of the objections of AIIC which are not being repeated herein for the sake of brevity.

205. RW2 in cross-examination He denied the suggestion that AIIC is an affiliate of PFI and is a front organization of PFI. On the copy of Memorandum of Association filed along with the affidavit there is no endorsement of Registrar of Societies. He denied the suggestion that he intentionally had not filed audited report as it would have exposed the link of AIIC with PFI and its affiliates.

206. **RW-3 Mr. Abdul Nasar T is the erstwhile National Secretary of Campus Front of India (CFI).** He tendered his evidence by way of affidavit vide **Ex.RW3/A**. He filed on record Copy of the Constitution of CFI vide **Exhibit RW3/B**, photograph of the activities being undertaken by the CFI vide **Ex.RW3/C (colly.)**. He deposed that the Background Note and its contents made baseless allegations. CFI was not involved in any of the cases list of which was relied upon by the Central Govt. He deposed that the notification was false and that CFI was not involved in any such type of activities. The contents of the affidavit of RW3 reproduced the contents of its objections which have already been referred to. In cross examination RW 3 deposed that the students groups were doing social and welfare activities before CFI came into existence. He denied the suggestion that he had made vague averments in his affidavit to mislead the Tribunal. He denied the suggestion that CFI is front organization of PFI or that copy of constitution of CFI is a fabricated document.

207. **RW-4 is Mr. A. Mohamed Yusuff who was produced from judicial custody in RC No.14/2022/NIA/DLI from Mandoli Jail No.15, Delhi.** He is an Advocate by profession and an office bearer of the PFI. He deposed by way of his affidavit vide **Ex. RW4/A**. He deposed that he used to give legal advise to PFI which was a democratic organization working towards the principles in the Constitution of India. He deposed that the notification dated 27.09.2022 did not contain any valid or legal grounds and violated the rights guaranteed under Articles 14,19 and 21 of the Constitution of India. The Background Note does not disclose material to make out a case for banning PFI or declaring it as an unlawful association. The Govt had withheld material facts and records from the Tribunal. The conduct of the Govt was in violation of principles of natural justice. PFI has filed several petitions before the Supreme Court and the High Court for which assistance was given by him to the PFI. RW4 details certain cases conducted by him in his affidavit. He claimed that he was falsely implicated in RC 14/2022/DLI of NIA. He claimed that his life was in danger as he was forced to give a confession before a Magistrate on the dictates of the NIA officials on 08.10.2022. He was unable to state anything to the Magistrate about tortured faced by him. In cross examination RW 4 denied the suggestions put to him by the Ld. Counsel for the UOI.

208. **RW-5 is Mr. O.M.A. Salam who was produced from judicial custody from Tihar Jail, New Delhi.** He is the erstwhile Chairman cum Member of the PFI. He tendered his evidence by way of affidavit vide **Ex. RW5/A** and additional affidavit vide **Ex.RW5/B**. He was in judicial custody in case RC No.14/2022/NIA/DLI and had sent his affidavit from the jail. He filed on record copy of Constitution of the Popular Front of India vide **Exhibit RW5/C**, Income tax returns of PFI for the years 2013-2022 vide **Exhibit RW5/D (colly.)**, Pamphlets titled School Chalo **Exhibit RW5/E (colly.)**, Certificates issued to PFI by various organizations regarding relief work done during the



pandemic of Covid-19 in the year 2020 vide **Exhibit RW5/F**, Copy of the petition CRL MC No.3192/2021 filed and pending in the Hon'ble High Court of Delhi vide **Exhibit RW5/G**, Copy of the petition CRL MC No. 505/2023 filed and pending in the Hon'ble High Court of Delhi vide **Exhibit RW5/H**. The contents of his affidavits are in line with the objections filed on behalf of PFI which are not being repeated for the sake brevity.

209. In cross-examination RW 5 deposed that he became member of PFI by the end of 2006 and became Chairman during February 2020. No member or office bearer of PFI or the PFI as an organization was involved in any criminal activities. He denied the suggestion that he was am intentionally making a false statement. He denied the suggestion that PFI had not stood against religious extremism and nor conducted campaign against ISIS or that PFI has not cautioned people against nefarious motives. He denied the suggestion that the event held on 24.01.2016 by National General Assembly of PFI was a façade to cover up the actual activities of PFI. The number of members of PFI were between 3-4 lacs before it was banned. RW5 denied all suggestions put to him in cross examination. PFI issues receipts of each and every donation received. He admitted as correct that Professor P. Koya, Mr. E. Abubacker and Mr. E.M. Abdul Rehman have been office bearers of PFI. He admitted as correct that RC 14/2022 / NIA /DLI was pending trial before the Special Judge, Delhi. He denied the suggestion that CFI, AIIC, NWF, Rehab India Foundation, Rehab Foundation Kerala, Junior Front, Empower India Foundation and NCHRO are associates or affiliates / fronts of PFI. He denied the suggestion that PFI was formed in 2006 by the core leadership of erstwhile Student Islamic Movement of India (SIMI) by merging three organizations with extremist ideology i.e. National Democratic Front Kerala, Manitha Nithi Pasari, Tamil Nadu and Karnataka Forum for Dignity. He denied the suggestion that several members of PFI including its top leadership have been from SIMI.

210. **RW-6 Mr. Anis Ahmed who was produced from judicial custody from Tihar Central Jail.** He is an erstwhile office bearer of the PFI. He tendered his evidence by way of affidavit vide **Ex.RW6/A** and additional affidavit vide **Ex.RW6/B**. He filed on record copy of Press Council orders dated 26.11.2023(7 Nos) vide **Exhibit RW6/C (colly.)**, copy of Press Council orders dated 13.06.2014 (3 Nos) vide **Exhibit RW6/D (colly.)**, copy of Income Tax Appeal related details vide **Exhibit RW6/E (colly.)**. In his affidavit he deposed that he was an Indian Software Engineer with specialization in Microsoft technology. He has been given several awards and recognitions. He graduated from Manipal Academy of higher education. He took part in the activities of PFI due to his desire to serve the country. The PFI under took activities and programmes for upliftment of deprived and downtrodden persons. The PFI was a law abiding organization. The ruling Govt with the backing of the RSS misused investigation authorities to wrongly prosecute the PFI and its members. He has attended several programmes towards saving democracy and secular fabric of the country. PFI has worked extensively during calamities including covid-19. He relied on an interview with the BBC. He stood against CAA as it was against the social and secular fabric of the country. No case was registered against him during his tenure of service. He had actively participated to oppose the propaganda of ISIS. No relevant facts or material have been produced by the Central Govt as evidence against the PFI. The cases of NIA have not yet reached the stage of trial or finality and the same at best were baseless allegations. The allegations contained in the notification are not related to any activities of the PFI. Declaration of PFI as an unlawful association is illegal and arbitrary.

211. In cross examination RW 6 deposed that in the PFI there is no procedure for the documentation of the membership and no receipt / acknowledgement is issued to the members. Membership register was maintained at the local unit level. PFI does not issue any membership I-CARD. He denied the suggestion that CFI, AIIC, NWF, Rehab India Foundation, Rehab Foundation Kerala, Junior Front, Empower India Foundation and NCHRO are associates or affiliates / fronts of PFI. Rest of his cross-examination is in the form of suggestions which he has denied.

212. **RW-7 Ms. Shameena is former member and District President Kannur of National Women's Front.** She tendered her evidence by way of affidavit **Ex.RW7/A**. She placed on record Photocopies of the Constitution of National Women's Front, Memorandum of Association, and Certificate of Registration of the National Women's Front bearing No. 636 / 2010 dated 24.11.2010 vide **Ex.RW7/B (Colly.)**, Printouts of Income Tax Returns of the National Women's Front submitted and verified by Ms. Shahida Aslam for AY 2020-21, 2021-22, and 2022-23, along with Income and Expenditure Accounts for those years vide **Ex.RW7/C (Colly.)**, Original Minutes of Meeting Book of National Women's Front vide **Ex.RW7/D (OSR)**, Printouts of photos and posts showing the activities of the National Women's Front vide **Ex.RW7/E (Colly.)**, Original Certificate dated 27.02.2023 under Section 65-B, Indian Evidence Act, 1872 qua **Ex.RW7/C (Colly.)** and **Ex.RW7/E (Colly.)** vide **Ex.RW7/F**. She deposed that she had joined the NWF as women from her community had joined NWF and she also wanted to work for people and her community. The contents of her affidavit are almost reproduction of the objections of NWF. In addition she has deposed that in the notification dated 27.09.2022 it had been wrongly stated that NWF was an associate / affiliate of PFI or that they were indulging in unlawful activities. The allegations in the notification were incorrect and false. She deposed that the NWF did social work for upliftment of the women and for the welfare of the society. Anybody willing to do social work could become its member and that there was no eligibility criteria. She deposed that NWF meetings can be attended only by its members and that there are no invitees. Source of revenue of NWF was donation and member subscription.

213. In cross examination RW 7 deposed that she was not associated at the time of formation of National Women's Front. She denied the suggestion that NWF was incorporated under the guidance of PFI leadership. She

knew Ms. Lubna, the former National President of NWF. She deposed as correct that Ms. Lubna attends and addresses various public meetings on behalf of NWF. He denied the suggestion that these gatherings are organized by NWF and its supporters. She did not know whether Ms. Lubna addressed a public gathering at Indira Gandhi International Stadium in New Delhi on 29.09.2019. A video clip duration 11 minutes 42 seconds MP4 file was played on the computer of the Tribunal in which RW7 identified the speaker as Ms. Lubna in the initial few seconds of the video. The video file was exhibited as **Ex.RW7/D1** and kept in pen drive **Ex.RW7/D2**. She denied the suggestion that she had fabricated books of accounts to mislead the Tribunal. She denied the suggestion that she had no authority to remain present before the Tribunal on behalf of the NWF. She denied the suggestion that NWF is a front of PFI.

214. **RW-8 Mr. Shareef Naduthody is former President of Rehab Foundation Kerala. He** tendered his evidence by way of affidavit vide **Ex.RW8/1**. He filed on record copy of the Registration Certificate dated 4.12.1991 issued by the District Registrar (General) and Registrar of Societies, Malappuram vide **Ex. RW8/(a)**, copy of the bye-law of the Foundation **Ex.RW8/(b)**, copy of list of the last Managing Committee of the Foundation vide **Ex.RW8/(c)**, copy of the Order dated 24.9.1999 issued by the Director of Public Instruction, Thiruvananthapuram, Government of Kerala recognizing the school vide **Ex.RW8/(d)**, copy of the Order dated 4.4.2000 issued by the Director of Public Instruction, Thiruvananthapuram, Government of Kerala renewing the recognition vide **Ex.RW8/(e)**, copies of the Certificate of Registration issued thereafter by the Joint Director of Public Instruction (Academic), Thiruvananthapuram, Government of Kerala, which are being issued in every three years, dated 1.1.2002, 27.6.2005, 2.9.2008, 7.2.2012, 28.4.2015 and 25.5.2018 vide **Ex.RW8/(f) (Colly)**, copy of the Certificate of Registration to Institution for Persons with Disabilities dated 5.6.2021, which is valid upto 4.6.2024, issued by the Joint Director, Directorate of Social Justice, Thiruvananthapuram vide **Ex.RW8/ (g)**, copy of the Programme in respect of the Malappuram District Special School Festival namely Malappuram District Special School Kalalsavam 2007-08 which was hosted by the Good Hope School for the Mentally Handicapped under the Foundation vide **Ex.RW8/(h)**, copy of the Notice (including its English translation) in respect of the 6th Malappuram District Special School Festival hosted by the school under the Foundation on 21.1.2012 vide **Ex.RW8/(i)**.

He also filed copy of the Order dated 17.5.2013 issued by the Commissioner of Income Tax, Kozhikode granting approval under Section 80G of the Income Tax Act to the Foundation vide **Ex.RW8/(j)**, copy of the Order dated 17.6.1993 of the Commissioner Income Tax, Cochin granting registration under Section 12A(a) of the Income Tax Act to the Foundation vide **Ex.RW8/(k)**, copy of the attendance register in the school vide **Ex.RW8/(l)**, copy of the relevant letter dated 3.2.1995 from the Ministry of Home affairs in this regard vide **Ex.RW8/(m)**, copies of the sanction letters in respect of the years 2018-19, 2019-20 and 2020-21 dated 29.10.20, 31.3.21 and 2.6.22 respectively issued from the Ministry of Social Justice and Empowerment, Government of India vide **Ex.RW8/(n) (Colly)**, copy of the Order dated 22.12.2005 issued by the National Trust, New Delhi including the Foundation as a Member of the Local Level Committee under S. 13 of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999 vide **Ex.RW8/(o)**, copies of the certificates dated 30.11.2007 and 29.11.2012 in respect of the periodical renewal of the registration issued by the National Trust, New Delhi to the Foundation vide **Ex.RW8/ (p) (Colly)**, copy of the Order dated 29.8.2013 issued by the Director of Public Instructions, Thiruvananthapuram in this respect vide **Ex.RW8/(q)**, copy of the Receipt dated 15.4.2020 issued by the District Collector, Malappuram in this regard vide **Ex.RW8/(r)**, photograph taken on the occasion of the Medical Camp, which was conducted on 28.11.2013 by the Composite Regional Centre coming under the Ministry of Social Justice & Empowerment, Government of India for the children, who are hearing impaired and mentally disabled and hosted by the Rehab Foundation Kerala vide **Ex.RW8/(s)**, photograph taken on 10.10.2012, as part of the Mental Health Day, legal awareness class conducted in the Rehab Foundation Kerala and inaugurated by the Malappuram District Judge namely Sri. P.K. Haneefa vide **Ex.RW8/(t)**, photograph taken on 21.11.2014, when the foundation stone for building for the aforesaid school under the Rehab Foundation Kerala was laid by Sri. Ubaidulla, the Member of Kerala Legislative Assembly from the constituency (Malappuram) vide **Ex.RW8/(u)**, photograph taken on 31.1.2016 when Sri. A.P. Anilkumar, the then Minister for Tourism, Kerala inaugurated the silver jubilee celebrations of the aforesaid school (Good Hope School for the mentally challenged) under the Rehab Foundation Kerala and Advocate M. Ummer (Member of Legislative Assembly, Kerala) vide **Ex.RW8/(v)**, photograph taken on 11.1.2019 when award was received from the Kerala Governor for the programme conducted by the children in the aforesaid school under the Rehab Foundation Kerala in connection with the programme namely "BetibachaoBetipatao" and "Women's Empowerment" vide **Ex.RW8/(w)**, photograph taken on 15.4.2020, when under the aegis of the Rehab Foundation Kerala, 50 PPE kits and 1000 three layer masks were handed over to the District Collector, Malappuram vide **Ex.RW8/(x)**, photograph taken on the occasion of inauguration of the aforesaid school under the Foundation on 14.8.1992 by the then Member of the Kerala Legislative Assembly from the Manjeri constituency namely Sri. Eshaq Kurikkal vide **Ex.RW8/(y)**, photographs taken on those occasions on 6.3.2008 at Edakkara, on 28.2.2009 at Vandoor, on 5.3.2009 at Ponnani, on 5.3.2010 at Makkaraparamb and on 20.3.2021 at Manjeri, when being member of the Local Level Committee of the National Trust coming under the Central Government, the Rehab Foundation Kerala conducted several National Trust Awareness Programmes on different days in different parts of the district - Malappuram vide **Ex.RW8/(z) (Colly)**, photograph taken on 20.8.2009, when the distribution of Medical Cards conducted jointly by the National Trust under the Central Government and the Rehab Foundation Kerala inaugurated by the District Collector, Malappuram vide **Ex.RW8/(aa)**, photograph taken on 21.1.2012, when Adv. M. Ummer, the

then Member of Kerala Legislative Assembly from the constituency Manjeri inaugurated the 6th Malappuram District Special School Festival vide **Ex.RW8(bb)**. The contents of the affidavit of RW8 are reproduction of the contents of its objections and the same are therefore not being referred to avoid repetitiveness. RW-8 Mr. Shareef Naduthody in cross examination denied the suggestions put to him.

215. **RW-9 Mr. Mohammad Raphy PP is the former Chairman of Empower India Foundation.** He tendered his evidence by way of affidavit vide **Ex. RW9/A**. He filed on record copy of its Trust Deed dated 02/12/2016 vide **Ex. RW9/B**, Original of second edition comprising the contents of the first edition of document titled “India 2047 : Empowering the people” released in 2016 by Justice Sachar comprises five parts vide **Ex. RW9/C**, Original of the supplementary edition – 2021 of the document titled “India 2047” analyzing the status of the Sachar Committee Report in the past 15 years also vide **Ex. RW9/D**. He clarified that there was a typographical error in para 16 (iv) on page 6 of his affidavit Ex.RW9/A vide additional affidavit **Ex.RW9/A1**. He deposed that Empower India Foundation had not made any book or document titled India 2047 except the books produced by him today before the Tribunal and stated in his affidavit. The contents of his affidavit are again a reproduction of the objections of EIF which have already been referred to and are not being repeated for the sake of brevity.

216. In cross-examination RW-9 Mr. Mohammad Raphy PP deposed that they got information about the ban from the newspapers and therefore they engaged a counsel who appeared on their behalf before the Tribunal. In respect of Ex.RW9/C he deposed that discussions for having a project of community empowerment started in 2013 and a project document was prepared and released in 2016. He admitted that six National Seminars were held before the formation of EIF on 02.12.2016 out of which Bengaluru Seminar held on 25.05.2014 was sponsored by Rehab India Foundation, Chennai Seminar was sponsored by National Women’s Front on 10.08.2014, Calcutta Seminar was sponsored by AICC on 31.07.2014 and Hyderabad Seminar was sponsored by Rehab India Foundation on 06.09.2014. He deposed that seminar held on 17.08.2014 in Delhi was hosted by Empower India Foundation. In response to suggestion that E. Abubacker Chairman Empower India Foundation presided over the New Delhi Seminar held on 17.08.2014 as stated at page 185 of Ex.RW9/C at point A to A, he deposed that it was incorrect as E. Abubacker was never the Chairman of Empower India Foundation and that there was a typographical error at point A to A. He deposed that Mr. E. Abubacker was Chairman Rehab India Foundation and had he presided over the New Delhi Seminar held on 17.08.2014. He admitted the suggestion that the last National Seminar held before the formation of EIF on 02.12.2016 in Hyderabad on 07.09.2014 was sponsored by Rehab India Foundation and that Mr. K.M. Sharif, President of PFI presented the theme paper. Rest of his cross examination is in the form of suggestions which he has denied.

#### **ARGUMENTS ADDRESSED BY MR. TUSHAR MEHTA, LD. SOLICITOR GENERAL ON BEHALF OF THE CENTRAL GOVT**

217. On the aspect of claim of privilege, Sh. Tushar Mehta, Ld. SG submitted that the UAPA and Rules i.e. UAP Rules lay down a mechanism to claim privilege and withhold certain facts / documents. He referred to the proviso to section 3(2) of the UAPA and proviso to Rule 5 of the UAP Rules and submitted that the statute itself empowers the Central Govt to claim privilege against disclosure of the source of the information relied upon and the full particulars thereof if disclosure of the same is against public interest. He submitted that under section 5(5) of the UAPA, the Tribunal is entitled to regulate its own procedure in all matters arising out of the discharge of its functions. Rule 3(1) of the UAP Rules states that the Tribunal should follow, as far as practicable, provisions of the Indian Evidence Act meaning thereby the Tribunal should, whenever possible, follow the provisions of the Evidence Act. He submitted that keeping in view the nature of the proceedings, i.e. an inquiry under the CPC and the likelihood of sensitive material likely to be disclosed to the Tribunal, it is not bound by the rules of evidence. Learned SG submitted that Rule 5 makes provisions for documents which should accompany the reference to the Tribunal. Rule 5 however itself makes an exception to the effect that the Central Govt need not disclose any fact even to the Tribunal which it considers against public interest to disclose.

218. Sh. Tushar Mehta, Ld. SG referred to the judgment in the case of *Jamaat-e-Islami Hind Vs. UOI* and submitted that it was clear that the Central Govt can withhold material from the respondents in public interest. He submitted that the Supreme Court on several occasions and under less stringent legislations has adopted a standard of balance of public interest. He submitted that keeping in view the issues of national security involved in the present matter, confidential documents cannot be disclosed to the respondents. He referred to the judgments in the cases of *Deendar Anjuman Vs. Government of India*, 2001 SCC Online AP 663 and *Mohd. Jafar Vs. Union of India*, 1994 Supp (2) SCC 1. He also relied on the decision of the previous Tribunals constituted under section 4 of the UAPA in which the claim of privilege by the Central Govt had been allowed holding that the same satisfied the requirement of section 123 of the Evidence Act which however was not applicable *stricto sensu*. He submitted that the decisions of the previous Tribunals are binding on this Tribunal in view of the provisions of section 5(7) of the UAPA which provide that the proceedings before this Tribunal are judicial proceedings.

219. Sh. Tushar Mehta, Ld. SG submitted that the law on non disclosure involved balancing public interest with private interest. He submitted that the most common form of non disclosure was provided under section 172(3) of the CrPC and referred to the cases of *Mukund Lal Vs. Union of India*, 1989 Supp (1) SCC 622, *Balakram Vs State of Uttarakhan*, (2017) 7 SCC 668, *Naresh Kumar Yadav Vs Ravindra Kumar*, (2008) 1 SCC 632, *Khatri (IV) Vs State of*

Bihar (1981) 2 SCC 493, E.K. Chandrasenan Vs State of Kerala, (1995) 2 SCC 99, Manu Sharma Vs State (NCT of Delhi), (2010) 6 SCC 1, Habeeb Mohd Vs State of Hyderabad, 1954 SCR 475, Malkiat Singh Vs State of Punjab 1991, 4 SCC 341, Sidharth & Ors Vs. State of Bihar (2005) 12 SCC 545.

220. Learned SG submitted that privilege can be claimed if the injury to the public interest was the reason for the exclusion from the disclosure of the documents. He submitted that public interest which demands evidence to be withheld is to be weighed against public interest in the administration of justice i.e. courts should have fullest possible access to all relevant materials. Learned SG submitted that the court has to decide which aspect of public interest outweighs the other and it has to perform a balancing act in this regard. Learned SG submitted that the test to be applied in such circumstances is whether the document emanates from the affairs of the States and if in the affirmative, the document will be a privileged document. Learned SG referred to the judgments of the Supreme Court in the cases of State of UP Vs. Raj Narain (1975) 4 SCC 428 and S.P. Gupta Vs. Union of India, 1981 Supp SCC 87, People's Union for Civil Liberties Vs. Union of India (2004) 2 SCC 476, A.K. Kaul Vs. Union of India (1995) 4 SCC 73 and Kanwar Jagat Singh Vs Directorate of Enforcement, 2007 SCC Online Del 934.

221. Sh. Tushar Mehta, Ld. SG has submitted that non disclosure of confidential material to the affected party will not violate the principles of natural justice as the said interest will have to be weighed as against national security and in such circumstances, it is the latter which will prevail. Learned SG referred to the decision in the case of Ex-Armymen's Protection Services (P) Ltd Vs. Union of India (2014) 5 SCC 409, Raj Kumar Singh Vs. State of Bihar (1986) 4 SCC 407 and Union of India Vs. Rajasthan High Court (2017) 2 SCC 599. He also referred to European jurisprudence to submit that even in normal adversarial processes, the European Court of Human Rights has permitted non disclosure in the case of Dowsett Vs. The United Kingdom (Application no. 39482/98). He also referred to the decisions of the House of Lords in the cases of C.C.S.U Vs. Minister for Civil Service (H.L.E) [1984] 3 WLR 1174 and Regina V. Home Secretary [1991] 1 WLR 890.

222. Sh. Tushar Mehta, Ld. SG also made submissions regarding subjective satisfaction of the Govt on the issue of public interest. Learned SG submitted that the same was not a matter of judicial deliberation as a matter of appeal. Satisfaction of the Govt has to be subjective satisfaction on the basis of relevant material. He submitted that unless it is established that the Govt has considered irrelevant or extraneous material or has taken its decision wholly in the absence of any material, the Court cannot sit in appeal over the decision of the Govt to examine whether it was the most prudent course of action or not. Learned SG submitted that considering the fact that the power was exercised by the Govt as a preemptory preventive exercise in national security, the contours of judicial review on reasonability are also curtailed. Learned SG referred to the following case laws in this regard: -

- (i) State of Bombay Vs. Atma Ram Sridhar Vaidhy – AIR 1951 SC 157;
- (ii) M. Jhangir Bhatusha and Others Vs. Union of India and Others 1989 Supp (2) SCC 201
- (iii) Colgate Palmolive India (P) Ltd Vs Union of India and Ors 1981 (2) ILR 249;
- (iv) Pebam Ningol Mikoi Devi Vs State of Manipur and Ors (2010) 9 SCC 618;
- (v) A.K. Kaul and Anr Vs. Union of India and Arn (1995) 4 SCC 73;
- (vi) State of NCT of Delhi Vs Sanjeev alias Bitto (2005) 5 SCC 181;
- (vii) Union of India and Ors Vs. Saleena (2016) 3 SCC 437

#### **ARGUMENTS ADDRESSED BY SH SV RAJU, LD. ASG ON BEHALF OF THE CENTRAL GOVERNMENT**

223. Sh. S.V. Raju, Ld. ASG submitted that the Central Govt. declares an association to be unlawful under section 3 (1) of the UAPA after it forms an opinion that an association is, or has become, unlawful. He submitted that such a declaration can be issued in respect of an association which is already unlawful or in respect of an association which, initially being lawful, has become unlawful. He submitted that the definition of an 'unlawful association' in section 2(1)(p) of the UAPA is in two parts – viz. an association being involved in 'unlawful activity' and / or an association involved in activity / offences punishable under section 153A or section 153B of the IPC. He submitted that either of the situations comprises of three categories i.e. where the association has for its object any such activities, or the association encourages or aids persons to undertake any of such activities or thirdly, where the members of such association undertake such activities. He submitted that if the activities of any association fall in any of these three categories, such an association will be liable to be declared as an unlawful association. He submitted that the crux of the matter before declaring an association as unlawful is to consider whether the association has become unlawful within the meaning of the definition contained section 2(1)(p) of the UAPA.

224. Ld. ASG submitted that PFI is an unlawful association and the other associations banned along with it are its fronts. Sh. S.V. Raju, Ld. ASG drew the attention of the Tribunal to the definition of 'unlawful activity' as defined under section 2(1)(o) of the UAPA and submitted that an association can become an 'unlawful association' in two ways, firstly in being connected with unlawful activities as per section 2(1)(o) and secondly in being connected in any activities in respect of the offences under sections 153A and 153B of the IPC. He submitted that the fact that PFI is deeply connected with other banned organizations stands established by the Central Govt through detailed evidence produced by it before the Tribunal which reflects that the PFI itself, its Office bearers and its members are indulging

in unlawful activities or are connected with activities punishable under sections 153A and 153B of the IPC. Sh. S.V. Raju, Ld. ASG then referred to individual cases where the PFI itself along with its office bearers and members are accused, cases where Office bearers of PFI are involved and cases where members of the PFI are involved in unlawful activities. Sh. S.V. Raju, Ld. ASG submitted that as per Rule 3 of the UAPA Rules, the strict rules of evidence do not apply to the Tribunal and as such, the bar contained in sections 25 and 26 of the Evidence Act regarding statements / confession made to police officers and the bar under section 162 of the CrPC regarding using statement of a witness recorded under section 161 of the CrPC do not apply to the proceedings before the Tribunal. He submitted that while the general courts are governed by statutory procedural rules i.e. Civil Procedure Code (CPC) and the Evidence Act, a Tribunal regulates its own procedure without being restricted by the strict rules of the Evidence Act. In this regard he relied upon the following case laws: -

- (i) UOI Vs. Madras Bar Association (2010) 11 SCC 1;
- (ii) Union of India Vs. T.R. Varma reported 1958 SCR 499;
- (iii) Tata Consultancy Services Limited Vs. Cyrus Investments Private Ltd & Ors reported as (2021) 9 SCC 449

225. As far this Tribunal is concerned, he submitted that the Tribunal is to proceed on the basis of the CPC and relied on sections 5(5), 5(6) and 5(7) of the UAPA read with section 9 of the said Act for this purpose. He submitted that since the CPC would govern the proceedings, the findings of this Tribunal are to be rendered on the touchstone of 'preponderance of probabilities' and not proof beyond reasonable doubt as applicable to trial of criminal cases. He submitted that the acquittal of a person accused of a criminal offence in a criminal trial would not have any bearing to a civil proceeding as the benchmarks are different. He relied in this regard on the following case laws: -

- (i) Avitel Post Studios Ltd Vs HSBC PI Holdings (2021) 4 SCC 713
- (ii) Kishan Singh Vs. Gurupal Singh reported (2010) 8 SCC 775
- (iii) Vishu Dutt Sharam Vs. Daya Sapar (2009) 13 SCC 729
- (iv) State (Delhi Admn) Vs. Sanjay Gandhi (1978) 2 SCC 411
- (v) State of UP Vs. Ram Swarup (1974) 4 SCC 764
- (vi) Mohan Singh Bhanwar Lal (1964) 5 SCR 12

226. Sh. S.V. Raju, Ld. ASG submitted that as CPC governs the procedure of this Tribunal, statements recorded under section 161 CrPC and statements / disclosure statements of person accused recorded by police officers would be relevant. He submitted that the bar under section 162 CrPC in respect of a statement recorded under section 161 CrPC or the bar under section 25/26 of the Evidence Act would not be attracted. He submitted that reading of section 162 of the CrPC itself makes it clear that the restriction under the said provision would apply only to enquiry or trial in respect of an offence under investigation at the time when such statement was made. He submitted that the bar under section 25/26 of the Evidence Act will apply only to a 'confession and not to an 'admission' i.e. a statement which is non-confessional in nature. He drew a distinction between a confession and an admission and for this purpose relied upon the following case law: -

- (i) Veera Ibrahim Vs. The State of Maharashtra (1976) 2 SCC 302
- (ii) Pakala Narayana Vs. King Emperor (1939) SCC Online PC 1
- (iii) Palvinder Kaur Vs. State of Punjab (1952) 2 SCC 177

227. Regarding non-applicability of section 162 of the CrPC to the proceedings of the Tribunal, the Ld. ASG relied upon the following case law: -

- (i) Daoman Mahton Vs. Surajdeo Prasad 1968 SCC Online 111
- (ii) Dharman and Another Vs. N.C. Srinivasan & Ors AIR 1990 Mad 14.
- (iii) Bal Kishan Vs. State of Rajasthan 1984 SCC Online Raj 73

228. On the aspect of non-applicability of sections 25/26 of the Evidence Act to proceedings before the Tribunal, he relied upon the following case law: -

- (i) Smt. Bal Kaur Vs. The State of Himachal Pradesh
- (ii) Mahesh Kumar Vs State of Rajasthan
- (iii) Gokaldas Kalyanji and Anr Vs. Mohan Lal Mnjibhai and Anr
- (iv) Ranjit Satardekar and Another Vs. Joe Mathias and Another
- (v) M/s Dhanraj Baldeo Kishan Vs. State
- (vi) Kusuma Ankama Rao Vs State of A.P.

229. On the question as to who can prove an extra judicial confession and whether it can be acted without corroboration in a trial, Sh. S.V. Raju, J. submitted that recording of an extra judicial confession cannot be restricted to persons other than police officers. He submitted that an extra judicial confession can be proved either by the person who made it or by the person who heard / recorded it and for this purpose relied on section 60 of the Evidence Act. He submitted that the person who recorded the confessional statement / extra judicial statement can prove the same and his evidence will not be 'hearsay' evidence. He further submitted that an extra judicial confession can form the basis of conviction even without corroboration in a trial. He relied upon the following case laws: -

- (i) Piara Singh Vs State of Punjab
- (ii) Baskaran Vs. State of T.N.
- (iii) Narayan Singh Vs State of MP
- (iv) State of UP Vs M.K. Anthony
- (v) Kusuma Ankama Rao Vs State of AP
- (vi) Jaswant Gir VS State of Punjab

230. Sh. S.V. Raju, J. then referred to section 35 of the Evidence Act to submit that statements recorded under section 161 CrPC, FIRs and chargesheets are 'public records' and by virtue of section 35 of the Evidence Act, contents thereof are relevant to the enquiry being conducted by this Tribunal. He referred to the judgment in the case of Khatri and Others (IV) Vs State of Bihar and Others reported (1981) 2 SCC 493.

231. Sh. S.V. Raju, J. submitted that section 114 illustration (e) of the Evidence Act lays down that the court shall presume the existence of any fact which it thinks likely to have happened in relation to the facts of a particular case, more particularly that all judicial and official acts have been regularly performed. He submitted that statements under section 161 CrPC and confessional statements are recorded by public servants / police officers and are official acts and by virtue of section 114 illustration (e), it is to be presumed that same have been properly and fairly recorded.

232. Sh. S.V. Raju, J. submitted that as the findings of this Tribunal are based on preponderance of probabilities, it would be worthwhile to consider the following references and case law in which this concept has been explained: -

- (i) Philpson on Evidence, Sixteenth Edition, London Sweet & Maxwell, 2005
- (ii) Mahesh Dattatray Thrithkar v. State of Maharashtra, 2009 11 SCC 141
- (iii) M Siddiq v. Suresh Das, 2020 1 SCC 1
- (iv) Maharashtra State Board of Secondary and Higher Education v. K.S. Gandhi & ors, 1992 2 SCC 716
- (v) Rajasthan Cylinders & Containers Ltd v. UOI, 2020 16 SCC 615
- (vi) Manohar Joshi v. State of Maharashtra, 2012 3 SCC 619

233. Sh. S.V. Raju, J. referred to the provisions of sections 153A and 153B of the IPC and submitted that there was sufficient evidence on the record to establish that the PFI and its associates / affiliates were involved in activities related to the said offences. He referred to Crime No. 425 of 2022 registered by South Police Station, Alappuzha on 23-05-2022, for offences punishable under sections 153A, 293A, 505(1)(b), 505(1)(C), 505(2), 506, r/w section 149 of, the Indian Penal Code and Section 75 and 83(2) of Juvenile Justice Act and also Section 120(0) of Kerala Police Act of 2012 and the evidence of PW-99 Mr. N.R. Jayaraj. He submitted that the evidence in this FIR clearly points out towards raising of slogans which attract the said offences and indulging in parades / drills by the Army of the PFI to instill fear in the minds of members of a particular community. He also referred to the evidence of PW100, PW68 and RC No.01/2011 and RC No.3/2022 for this purpose. He submitted that the evidence in RC 12/2017 as well as evidence of ED cases reflected that it was the cadres of the PFI receiving payments from PFI who were indulging in unlawful activities at the behest of PFI. He referred to the case of accused persons Anasud Badruddeen and Feroz in FIR No. 4/2021 PS ATS Gomti Nagar and the evidence of PW14 and PW27 read along with the evidence of PW30, Ex.PW30/AJ.

234. Sh. S.V. Raju, J. referred to the cases where documents / literature pertaining to "Ghazwa -E- Hind" were recovered as well as the document titled "India 2047 Towards Rule of Islam in India". For this purpose he referred to the evidence of PW15, PW16, PW23, PW45-PW48, PW59-62, PW63, PW68, PW70-71 and PW80-84. He submitted that these documents reflect that PFI intended to bring about Islamic Rule in India by the year 2047 by overthrowing a constitutionally backed Rule of Law.

235. During the course of the arguments, the learned ASG referred to an article "Prophecy & the Jihad in the Indian Subcontinent" published by Husain Haqqani and read out portions of the same as per which the author is of the



opinion that radical islamists invoke the Hadith (the oral traditions attributed to the Prophet Muhammad) to prophesize a great battle in India between true believers and unbelievers before the end-times. Learned ASG further referred that with this motive, the young mulims are motivated to fight battle and seek victories that were ostensibly foretold fourteen centuries earlier by the Prophet. Learned ASG submitted that the Husain Haqqani, who was former ambassador of the Pakistan to United States of America, in his paper on Current Trends in Islamists Ideology “Prophecy & the Jihad in the Indian Subcontinent” has inter alia remarked “the Hadith predicting the great battle for India is often referred to as the Ghazwa-e-Hind Hadith, various versions of which have been recycled each time a Muslim leader or would be conqueror attempted to raise an army to invade India.” He submitted that the evidence on the record reflects that a large number of cadres of PFI are in possession of these documents which promote overthrow of a constitutionally backed government to establish an Islamic Nation.

236. Sh. S.V. Raju, Ld. ASG referred to Ex.CX which is a certified copy of Statement filed by the Senior Govt Pleader in the High Court of Kerala, Ernakulam Bench in W.P (C) No.16249/2012 titled Sidhik Rawther Vs. The District Police Chief and Another. He submitted that the contents of the same reflect that the PFI is the successor of SIMI which is a banned organization and that the objects of the PFI are similar if not identical to the objects of SIMI.

237. Sh. S.V. Raju, Ld. ASG filed a compilation in the form of Gist of Evidence to demonstrate that all the other eight organizations that have been banned along with PFI are nothing but associates / fronts of the PFI. He submitted that these organizations have been set up by the PFI which exercises deep and pervasive control over their functioning. He submitted that ordinarily one coin has two sides but the coin of PFI has nine sides to it.

238. In rebuttal, Sh. S.V. Raju, Ld. ASG has very ably and vehemently submitted that about a thousand FIRs have been mentioned by the Central Govt in the Background Note and Annexures. It has however relied upon some of those FIRs towards producing material evidence in support of the ban. He submitted that the proceedings before the UAP Tribunal constituted under section 4 are time bound. The Tribunal is to give its decision within six months of the issuance of the notification under section 3 of the UAPA. He submitted that the notification in this case was issued on 27.09.2022 and was published in the official gazette on 28.09.2022. Six months from the date of the publication of notification in the gazette i.e. 28.09.2022 will come to an end on 27.03.2023. The Reference was made by the Central Govt to the Tribunal on 26.10.2022. The Tribunal held its preliminary hearing on 31.10.2022 and issued notice to the associations for 08.12.2022. The Tribunal had hardly three and half months to conduct its proceedings which included recording of evidence on behalf of the Central Govt, recording of evidence on behalf of the associations, hearing arguments and then preparing its report. He submitted that in such circumstances, it would have been impossible to lead evidence on all the thousand cases mentioned in the Background Note and Annexures. He submitted that the words ‘as far as practicable’ mentioned in Rule 3 (1) of the UAP Rules in reference to the rules of evidence laid down in the Evidence Act have to be read in the light of the time limit set in section 4 of the UAPA i.e of six months.

239. Mr. S.V. Raju, Ld. ASG has submitted that the Central Govt has led material evidence on sample cases to demonstrate that there was sufficient material to come to an opinion that PFI and its associates were indulging in unlawful activities. He submitted that law does not require that the cases which should form the basis of opinion should not be proximate to the date of the decision or there should be X number of cases to prove and association to be an unlawful association. Even one case may be sufficient. He submitted that there have been large number of cases in which PFI and the other associations were indulging in unlawful activities which have been mentioned in the Background Note. The list in the Background Note is illustrative and not exhaustive. He submitted that due to time constraints limited number of cases were presented before the Tribunal but the material in the same is more than sufficient. He submitted that discharge or acquittal of a person accused in a criminal trial will have no bearing in the present proceedings as the degree of evidence required in a criminal trial is proof beyond reasonable doubt whereas before this Tribunal, the adjudication is to be based on the principles of preponderance of probabilities. He submitted that statements under section 161 CrPC, confessional statements are not admissible in a criminal trial but the same can be considered and are relevant for proceedings of this Tribunal. He submitted that the principles of resjudicata under section 11 of the CPC and the provisions of section 300 of the CrPC and Article 20(2) will not apply to the present proceedings as the parties in the criminal cases and the parties to these proceedings are not the same. He submitted that the present proceedings are not a trial or prosecution of the same PFI or other associations members.

240. Mr. S.V. Raju, Ld. ASG has submitted that the Ld. Counsel for the PFI had relied upon the judgment in the case of Tarlochan Singh Vs. State of Punjab 1973 SCC Online P&H 300 which stood overruled in the Full Bench decision of the Punjab and Haryana High Court in the case of State of Haryana & Ors Vs Shri Ram Chander 1977 1 ILR (P&H) 24. He submitted that in this case the Full Bench had held that statements of passengers produced by a ticket checker were held to be admissible in evidence as hearsay evidence was admissible before a Tribunal which is to proceed on the basis of natural justice and is not bound by the rules of evidence under the Evidence Act. He submitted that the same had also been held in the cases of D.T.C. Vs Phool Singh & Ors MANU /DE/3085/2022, Airports Authority Vs. Pradip K. Banerjee, Calcutta High Court, W.P. No. 8256(W) of 2005. He submitted that statements made under section 50 of the PMLA were admissible in evidence as held by the Supreme Court in the case of Vijay Madan Lal. He submitted that the judgment in the case of Jaganath Prasad Sharma Vs State of UP (1962) 1 SCC 151, Central Bank of India Vs. Prakash Chand Jain (1969) 1 SCR 735, it themselves hold that the Tribunal is not bound by technical rules of evidence.

241. Ld. ASG submitted that the Learned counsel for the PFI by citing an overruled judgment titled Tarlochan Singh Vs. State of Punjab 1973 SCC Online P&H 300 has committed contempt of the Court and necessary proceedings may be initiated against him. Even though the Tribunal has not appreciated the citing of the overruled judgment but it stops itself at this point by merely cautioning and advising the Bar that it should be careful while citing judgments. At this juncture, Shri Ashok Agarwal, learned counsel made a submission that even from the side of the Union of India certain overruled judgments were cited, however, when asked, learned counsel could not refer any.

**ARGUMENTS ON BEHALF OF ERSTWHILE MEMBERS AND OFFICE BEARERS OF PFI ADDRESSED BY MR. ASHOK AGRWAAL AND MS. SRIDEVI PANIKKAR, LD. COUNSELS**

242. Mr. Ashok Agrwaal, Ld. Counsel filed written submissions and addressed oral arguments. He submitted that immediately upon issuance of the notification dated 27.09.2022 the PFI was formally dissolved and it does not exist anymore and as such the PFI has complied with the requirements of law. However no such document disbanding PFI has been placed on record. Reference is being made to their members / office bearers only for the purposes of these proceedings. He submitted that the proceedings before this Tribunal are judicial in nature and not quasi-judicial. He submitted that the ban imposes upon the PFI a restriction upon its fundamental right to freedom of association under Article 19 (1)(c) of the Constitution of India and the same must satisfy the test of “reasonable restriction” as per Article 19(4) of the Constitution. He submitted that it is on account of the same that a Constitutional Court i.e. a sitting Judge of the High Court comprises the Tribunal for the scrutiny of the decision of the Central Govt to impose the ban under section 3(1) of the UAPA. He submitted that the attempt of the Central Govt in these proceedings has been to portray the PFI as a criminal and terrorist organization being at the core of such alleged network. He submitted that attempt of the present Govt has been to demonize the Muslim community to serve its electoral and political ends. He submitted that the primary factor for the Central Govt to impose the ban upon the PFI were the upcoming elections in the States such as Karnataka and the general election in the year 2024. He submitted that the BJP as a party is hostile to any association or organization that claims to speak on behalf of Muslims in India. He submitted that ever since the BJP came to power in the Centre, regime of terror and intimidation has been unleashed on the Muslims with incidents taking place frequently. The Law Enforcement Agencies are not responsive to the complaints by the Muslim community which is subjected to abuse. He submitted that the PFI has been struggling to help the members of the Muslim community which is intolerable to the majoritarian regime. He submitted that the PFI is not linked to the other eight organizations which have been banned together by the notification dated 27.09.2022. It is an independent organization and for this reason the said notification is bad in law and is liable to be shut down.

243. Mr. Ashok Agrwaal, Ld. Counsel further submitted that reference was made by the Central Govt to the rallies of the PFI in Kerala to submit that it believed in violence. He submitted that admittedly no violence took place in the rally in question and that it was common to the political culture in Kerala for such kind of rallies to be taken out. He submitted that even the RSS takes out such rallied where its cadres come out in uniform with sticks in their hands whereas no member of PFI was seen carrying any weapons in their rally. He submitted that no effective notice was given to the PFI of the notification dated 27.09.2022 or even notice of this Tribunal. He submitted that the Central Govt was aware that the top office bearers of the PFI had been incarcerated and were in jail but the Central Govt did not take any steps to serve the notices or the notification upon them in the jail nor did the Central Govt inform this Tribunal that the leadership of the PFI were in jail. He submitted that the materials relied upon by the Central Govt forming the basis of the notification i.e. Background Note and the Annexures had not been supplied to the PFI and copies thereof were made available only after this Tribunal issued directions in this regard. He submitted that even the advance copies of the evidence which was being led by the Central Govt were being supplied very late, often one night before the hearing leaving no time for the counsels for the PFI to prepare their cross examinations. In such facts and circumstances, insufficient notice was given to the PFI which prevented it from effectively contesting the matter to present the version of PFI before this Tribunal.

244. Mr. Ashok Agrwaal, Ld. Counsel referred to the proviso to section 3(2) of the UAPA and the proviso to Rule 5 of the UAP Rules and submitted that where any information or fact is not disclosed in the notification, the notification must make a reference to the same. He submitted that the Central Govt through PW98 has submitted documents in five sealed covers of which it has claimed privilege but it has not made any statement in the notification that it has withheld certain material and information which formed grounds for banning the PFI. He submitted that the Central Govt led evidence before this Tribunal by examining 97 witnesses prior to examining PW98 without laying any factual foundation that it would be relying on confidential material which would not be disclosed to the opposite parties. In such circumstances documents submitted in sealed cover cannot be considered by this Tribunal. He submitted that recently the Supreme Court has also deprecated the practice of “sealed cover” in proceedings before it. He submitted that while examining such material, the Tribunal must comply with the procedure as laid down in the case of S.P. Gupta. If the Tribunal finds that the material is not confidential in nature, its disclosure to the opposite party is must. He submitted that there should be a sub-adjudication on this aspect by the Tribunal.

245. Mr. Ashok Agrwaal, Ld. Counsel has submitted that the Tribunal must follow the procedure as explained by the Supreme Court in the case of Jamaat-e-Islami Hind Vs. UOI i.e. adjudicating whether there was sufficient cause for the Central Govt to ban the organization. He submitted that such adjudication would require an objective determination on the basis of material placed before the Tribunal by the two sides. He submitted that the credibility of

the material placed before the Tribunal should be capable of objective assessment. He relied on the observations of the Supreme Court in the case of *State of Madras Vs. V.G. Row* reported in AIR 1952 SC 196 where the Supreme Court struck down a law which enabled the State to declare associations illegal as the law did not provide for effective service or judicial enquiry in the notification. He submitted that the observations in the said case were read with approval by the Supreme Court in the case of *Jamaat-e-Islami Hind Vs. UOI*. He further submitted that even if the banned organization is unrepresented, the Tribunal is under an obligation to adjudicate whether the ban imposed upon it was justified or not.

246. Mr. Ashok Agrawal, Ld. Counsel has submitted that the Central Govt has misread the judgment of the Supreme Court in the case of *Jamaat-e-Islami Hind Vs. UOI*. He submitted that the Evidence Act applies in its entirety to the proceedings of the Tribunal. Only exception made is in respect of confidential material for which also the Supreme Court in the said case has directed that the Tribunal will have to devise a procedure to test the veracity of such material. He submitted that the case law relied upon by the Central Govt in para 2.4.1, 2.4.2 and 2.4.3 of its Written Submissions do not apply to the proceedings of this Tribunal. He submitted that the case law in the said para(s) pertained to National Company Law Tribunal matters and one case relating to a Departmental enquiry. He submitted that the said case law apply to quasi-judicial Tribunals and not to a Tribunal set up under the UAPA consisting of a Constitutional Court. He submitted that the words “as far as practicable” in the application of the Indian Evidence Act laid down in Rule 3(1) of the UAP Rules do not amount to non application of the Indian Evidence Act to the proceedings of the Tribunal altogether. He submitted that the said words would mean that the Evidence Act will be applicable to the extent its application becomes impractical and for the same reasons will have to be recorded. He relied upon the following case laws in this regard: -

(i) *Magan Lal Vs. Jaiswal Industries* (1989) 4 SCC 344

(ii) *Dr. Partap Singh Vs. Director of Enforcement* 1985 3 SCC 72

247. Mr. Ashok Agrawal, Ld. Counsel has submitted that it is not permissible to use hearsay evidence in the proceedings of this Tribunal as the same is inadmissible in evidence. He submitted that the contents of the statements recorded under section 161 of the CrPC can be proved only by the maker of the statement and not by the person who has recorded it. He submitted that the person who recorded such statement can only prove the fact that such a statement was recorded but not its contents. He submitted that even if a Tribunal is not bound by the strict rules of evidence, hearsay evidence is inadmissible in proceedings of Tribunals as well. For this purpose he relied upon following case law: -

(i) *Jagannath Prasad Sharma Vs. State of UP* 1962 1 SCR 151 (Constitutional Bench)

(ii) *Tarlochan Singh Vs. State of Punjab* 1974 SCC Online P&H 300

(iii) *Central Bank of India Vs. Prakash Chand Jain* 1969 1 SCR 735

(iv) *H. Umesh @ Umakantha Rao Vs State of Karnataka* 1990 SCC Online Kar 144

248. Mr. Ashok Agrawal, Ld. Counsel has submitted that statements of witnesses including those of the accused persons made under section 161 and 162 CrPC in the previous cases are not admissible in the proceedings before this Tribunal. He submitted that reliance placed by the Central Govt on the decision in the case of *Khatri and Others Vs. State of Bihar* (supra) is misconceived. He submitted that a reading of the said judgment will reveal that the decision of the Supreme Court in the said case was deeply influenced by the nature of the proceedings before it and in a petition under Article 32 of the Constitution of India for enforcement of fundamental rights of the petitioners in that case which is not the case at hand. He submitted that in this context the Supreme Court held that the reports of the Senior Police officers were public record and were relevant under section 35 of the Evidence Act. He submitted that the ratio laid down in the said case is not applicable to the proceedings before this Tribunal. He submitted that unlike the said case, in the present proceedings the Central Govt is seeking to rely on confession statements for the purposes of curbing fundamental rights under Article 19(1) (c) of the Constitution of India. He submitted that even in the case of *Khatri*, aid of statements recorded under section 161 of the CrPC in another case can be taken only if the same are otherwise relevant as per the provisions of the Evidence Act. He submitted that such statements sought to be relied upon by the Central Govt in the present proceedings are unrelated to the case put up before the Tribunal. He submitted that evidence given by a recorder of such a statement amounts to hearsay evidence which cannot be considered by the Tribunal. He placed reliance on the following case law on this aspect: -

(i) *Kalyan Kumar Gogoi Vs. Ashutosh Agnihotri and Anr* 2011 2 SCC 532

(ii) *Bhudgomal Gangaram and Ors Vs. State of Gujarat* 1984 1 SCC 319

(iii) *Jagdish Narayan and Anr Vs. State of UP* 1996 8 SCC 199

(iv) *Khasbaba Maruti Sholke Vs. State of Maharashtra* 1973 2 449

(v) *Ram Kishan and Ors Vs. State of UP* 2005 9 SCC 736

(vi) *H. Umesh @ Umakantha Rao Vs. State of Karnataka* 1990 SCC Online Kar 144

249. Mr. Ashok Agrwaal, Ld. Counsel has submitted that statements recorded under section 161 of the CrPC in other cases will not be relevant under section 6 of the Evidence Act. He submitted that the said statements are not connected to the facts in issue before the present Tribunal so as to form part of the same transaction which is a requirement under section 6 of the Evidence Act as held in the cases of *Gantela Vijayvardhan Rao Vs State of AP* 1996 6 SCC 241, and *Sukhar Vs State of UP* 1999 9 SCC 507. He submitted that such statements are also not relevant under section 11 of the Evidence Act. He submitted that as per section 11, what is relevant is existence of fact and not a statement as to such existence. Thus unless the witness who actually made the statement under section 161 of the CrPC comes and deposes before the Tribunal regarding the contents of such statement, the evidence of recorders of such statements will be irrelevant under the Evidence Act. Before a fact can be considered to be relevant under section 11, it has to be shown as being admissible under section 32 of the Evidence Act. The evidence of police officers before this Tribunal regarding statements of witnesses and accused persons are thus rendered inadmissible before this Tribunal. He submitted that the same also held in the cases of *Munnal Lal Vs. Kameshri Dt* AIR 1929 Oudh 113 and *Bela Rani Vs Mahabir Singh* ILR 1912 34 All 341.

250. Mr. Ashok Agrwaal, Ld. Counsel has submitted that statements recorded under section 161 of the CrPC in other cases are inadmissible before this Tribunal under section 33 of the Evidence Act as well as section 35. He submitted that section 33 cannot be used to make confessional statements by witnesses or accused persons in previous cases admissible before the Tribunal. Even under section 35, what can be shown is that such statements exist but not in respect of the contents of such statements. He relied on the case of *Standard Chartered Bank Vs. Andhra Bank Financial Services* reported in (2006) 6 SCC 94. Such statements will also not become admissible by virtue of illustration 4 to section 114 of the Evidence Act as such presumptions are rebuttable in nature. Same also held in the case of *Sodhi Transport Co. V. State of UP* (1986) 2 SCC 486.

251. Mr. Ashok Agrwaal, Ld. Counsel has submitted that the bar of sections 25 and 26 of the Evidence Act are fully applicable to the proceedings before this Tribunal. For this purpose he placed extensive reliance on the observations of Supreme Court in the case of *State of Maharashtra Vs. Kamal Ahmed Mohammed Vakil Ansari and Ors* (2013) 12 SCC 17. He submitted that the Supreme Court has held that the confession of a person accused cannot be used in another case against other accused persons unless the maker of the confession is also an accused in the other case or the maker of the confession is examined in the other case to prove the contents of his confession. He submitted that as per section 60 of the Evidence Act it is only the maker of the confession who can prove its content.

252. Mr. Ashok Agrwaal, Ld. Counsel made rebuttal on behalf of PFI to the judgments and case law cited and relied upon by the Central Govt. Mr. Ashok Agrwaal, Ld. Counsel has filed a tabular statement in this regard. He also played four videos during the course of hearing which were purported videos of route marches of CPI and RSS in Kerala. He submitted that the same showed that even the cadres of CPI and RSS carry out marches in Kerala wearing uniforms and carrying sticks. The said videos were furnished on a pen drive supported with a certificate under section 65B of Evidence Act of Ms. Sridevi Panikkar, Advocate during the course of arguments which were objected to by Sh. S.V. Raju, Ld. ASG that the same cannot be considered as evidence and that no certificate under section 65B of the Evidence Act can be rendered by a Counsel who is representing a party in this Tribunal as the Bar Council of India Rules strictly provide that no counsel can appear as a witness in the same case. On this aspect Sh. Ashok Agrwaal, Ld. Counsel submitted that the video files furnished to this Tribunal were not evidence relied upon by him but only furnished as arguments. It is pertinent to mention that Sh. Ashok Agrwaal submitted that even the Central Govt has relied upon certain overruled judgments but he could not make any reference to any such judgement.

253. Mr. Ashok Agrwaal, Ld. Counsel submitted that the evidence produced by the Central Govt reflected that it did not have any material with it prior to issuance of the notification dated 27.09.2022. He submitted that the Central Govt produced evidence of about 71 cases out of which 35 were registered in the year 2022. Out of these 35 cases, 25 cases were registered between 19.09.2022 to 25.09.2022 and two were registered after 27.09.2022. He submitted that 7 cases are of the period May 2022 to August 2022. The same reflected that a decision had already been taken to ban the PFI and other organizations and for this reason, to create false evidence, a flurry of cases were registered in the year 2022 with false allegations with the intention to support a ban which was pre decided. He submitted that these cases were registered only to justify the ban. He submitted that the cases registered after 27.09.2022 could not be looked into. He submitted that documents produced in respect of cases registered between 19.09.2022 to 25.09.2022 were not even before the Govt and thus could not form part of material to form the opinion for declaring the PFI and other associations as unlawful associations. He submitted that as per the judgment of the Supreme Court in the case of *Jamaat-e-Islami Hind Vs. UOI*, allegations need to be factual in nature. Section 2(1)(o) of the UAPA which defines unlawful activity requires the alleged activities to be actions and not allegations. He submitted that chargesheets and FIRs are only allegations and cannot be termed as actions and persons who are accused can be discharged or even acquitted. He submitted that in the case of *Jamaat-e-Islami Hind Vs. UOI* the Supreme Court drew a distinction between cases of preventive detention for consideration of an Advisory Board and the material required for forming an opinion for the purposes of declaring an association as unlawful under section 3 of the UAPA. He submitted that the provisions of section 2(1) (o) and 2(1) (p) of the UAPA require a breach thereof to enable the Central Govt to form an opinion to declare an association as "unlawful association". He submitted that allegations which have not been proved in any trial cannot form the basis to declare an association as unlawful under the UAPA. He submitted that the records

produced by the Central Govt in the form of statements, FIRs and chargesheets cannot be material evidence for the purposes of this Tribunal.

**ARGUMENTS ON BEHALF OF ERSTWHILE MEMBERS AND OFFICE BEARERS OF CFI AND AIIC  
ADDRESSED BY MR. MOBIN AKHTAR, LD. COUNSEL**

254. Mr. Mobin Akhtar, Ld. Counsel has filed written submissions and addressed oral arguments. He submitted that section 3 of the UAPA empowers the Central Govt to declare as unlawful an 'association' by issuance of a 'notification' in the Official Gazette. He submitted that reference to the word 'association' and 'notification' in section 3 is in singular and thus only one association can be declared as unlawful under one notification. He submitted that in the present matter, the Central Govt has declared as unlawful several associations by a single notification which is bad in law. He submitted that CFI, AIIC and PFI are separate associations unconnected with each other. If the Central Govt was of the opinion that AIIC and CFI were unlawful associations then such declaration should have been issued vide separate notifications. He submitted that section 3 of the UAPA does not provide that the word 'association' includes associates or affiliates or fronts as the word i.e. 'association' is not to be read as inclusive of associates or affiliates or fronts. He submitted that in the present case the principles of "Causu Omissus" applies and the Court /Tribunal cannot supply a word under the garb of interpretation of the statute when a plain and simple reading of the statute is clear. He referred to the judgements in the cases of UOI Vs. Rajive Kumar (2003) 6 SCC 516; Unique Butyle Tube Industries (P) Ltd Vs. U.P. Financial Corporation and Others (2003) 2 SCC 455; S. Surjit Singh Kalra etc Vs. UOI & Anr (1991) 2 SCC 87; Prakash Kumar Alias Prakash Bhutto Vs. State of Gujarat (2005) 2 SCC 409; Afcons Infrastructure Limited and Anr Vs. Cherian Varkey Construction Company Pvt Ltd and Ors (2010) 8 SCC 24; Karnataka State Financial Corporation Vs. N. Narsimhaihah and Ors (2008) 5 SCC 176. He submitted that the UOI has no clarity as to whether the CFI and AIIC are associates or affiliates or fronts of PFI and reference made to the said organizations as such is misleading, vague and rebutted by the respondent.

255. Mr. Mobin Akhtar, Ld. Counsel has submitted that section 3 of the UAPA envisages that the Central Govt is to form an 'opinion' that any association has become unlawful before declaring any such association as unlawful. Such an opinion can be formed on the basis of material / evidence which includes intelligence input which are not to be disclosed in public interest and facts stated in the Background Note along with its Annexures. He submitted that the notification dated 27.09.2022 does not reflect that the Govt has formed its opinion on the basis of any intelligence input which it does not intend to disclose in public interest. However making reference to such intelligence inputs through PW98 at the end of the proceedings points to the fact that no such inputs were considered by the Central Govt at the inception when it formed its opinion to declare the association as unlawful and that the material produced by the PW98 in sealed cover is nothing but fabricated material which cannot be having any credibility.

256. Mr. Mobin Akhtar, Ld. Counsel has submitted that the evidence led by the Central Govt through affidavits of investigating officers of cases were not sent by such witnesses to the Central Govt nor were the same called by the Central Govt. The same reveals that such evidence placed before the Tribunal was not part of the grounds canvassed in the notification. He submitted that the said fact has been confirmed by PW98 who has deposed that the Background Note and Annexures had been prepared after the decision of the Cabinet of the Central Govt to declare the association as unlawful. The material evidence produced before the Tribunal was not before the Cabinet. As such the same cannot be considered by this Tribunal. He submitted that as per the CPC, any fact which is not part of the grounds of the notification cannot be led for consideration for adjudication by the Tribunal. Evidence cannot be led beyond pleadings.

257. Mr. Mobin Akhtar, Ld. Counsel has submitted that the proceedings of this Tribunal are judicial in nature and are unlike other Tribunals such as Central Administrative Tribunal which adjudicates on the basis of admitted facts and records. He submitted that the material placed before this Tribunal being facts collected during investigation are not evidence as defined under section 3 of the Evidence Act. For this purpose he referred to the cases of Hardeep Singh Vs. State of Punjab Criminal Appeal No.1751/2018; R.C. Kumar & Others Vs. State of Andhra Pradesh and Anr Law of Crime XII-1990 (3); Parasnath Pandey and Another Vs. State AIR (Bombay) 205 (V 49 C45); Sheo Raj Vs State (AIR) Allahabad 290 (V 51 C 84). In respect of the issue whether evidence led in criminal proceedings and judgments of criminal courts are admissible in civil proceedings, he submitted that such judgments can only prove as to who the parties were and what was the outcome. Statements of witnesses recorded in criminal proceedings would not be admissible in civil proceedings and finding of the criminal court is not binding in civil proceedings. He submitted that the Evidence Act is applicable to proceedings before this Tribunal and pleading of fact and denial of fact becomes an issue before this Tribunal which cannot be proved without following the laws of evidence. He relied on the cases of Ramadhar Chaudhary and Ors Vs. Janki Chaudhary AIR (1956); Municipal Committee Jallundur Vs. Shri Romesh Saggi & Ors (AIR) 1970 PH 137; Lakhmi Ammal (died) Thara Bai Vs. Mari Ammal; B Muthu 2020 Law Suit (Mad) 2405.

258. Mr. Mobin Akhtar, Ld. Counsel has submitted that the judgment of the Supreme Court in the case of Jamaat-e-Islami Hind Vs. UOI is only case law which deals with the procedure to be followed by this Tribunal. He submitted that the observation of the Supreme Court in the said case that law of evidence cannot be followed in the strict sense is restricted to confidential material relied upon by the Central Govt in respect of which it claims privilege. The said observation will not apply to other material evidence sought to be relied upon and the same will be governed by the Evidence Act. Decision or adjudication on the principle of preponderance of probability can be arrived at only after

considering the material produced by both the sides who are party to the lis by strictly following the provisions of the Evidence Act. He submitted that the definition of unlawful activity under section 2(1)(o) of the UAPA includes activities related to cession (defined under section 2(1)(b)) and secession (defined under section 2(1)(i)) of the UAPA. He submitted that it is not case of the Central Govt that the CFI or AIIC had indulged in activities related to cession or secession. He further submitted that there is no material on the record to show that CFI or AIIC had indulged in activities related to the offences under sections 153A or 153B of the IPC. There is no material to show any linkage between PFI and CFI and AIIC. It has not been established that any members of the PFI are members of CFI or AIIC. Even if it was so the same cannot form any ground to hold that CFI or AIIC are unlawful associations. Any individual offence cannot be attributed to be that for fulfilling the object of an association. He submitted that the Central Govt has relied on cases of the ED of the year 2018 and 2020. At that time CFI and AIIC were legal organizations. Statement of K.A Rauf Sherif recorded under section 50 of the PMLA cannot be relied upon as he has stated in judicial proceedings that his signatures were obtained forcefully on several pages.

259. Rest of the submissions of Mr. Mobin Akhtar, Ld. Counsel are legal which he submitted have already been covered in the submissions made on behalf of erstwhile members of PFI and he is not repeating the same.

**ARGUMENTS ON BEHALF OF ERSTWHILE MEMBERS AND OFFICE BEARERS OF REHAB INDIA FOUNDATION ADDRESSED BY MR.ADIT PUJARI, LD. COUNSEL**

260. Mr. Adit Pujari, Ld. Counsel has filed written submissions and has argued orally as well. He submitted that no material has been produced by the Central Govt to establish that RIF was involved in any unlawful activity. Mere transfer of funds by alleged members of PFI to RIF cannot be a ground to form an opinion that RIF was involved in unlawful activity. He submitted that admittedly RIF has not been arraigned as accused in any of the cases relied upon by the Central Govt including ED cases and material produced by PW30. He submitted that PW30 has deposed that the scheduled offence was RC of the year 2013 but the High Court of Kerala vide judgment dated 19.12.2016 passed in CRLA No.147/2016 had exonerated the PFI / SDPI in the said case and thus the same cannot be the scheduled offence for investigation of offence under PMLA by the ED. He submitted that PW59 had deposed that the RIF was involved in funding of terrorist activities which is an offence under section 17 of the UAPA but however the RIF is not arraigned as an accused for such alleged funding. He submitted that the ED in its ECIR has relied on an FIR in which PFI and RIF do not have any role and thus the RIF could not have been declared as unlawful association. He submitted that no witness examined by the Central Govt has deposed that any member of RIF indulged in any unlawful activity. The Central Govt has failed to prove the involvement of RIF to the extent of “greater probability” as explained by the Supreme Court in the case of Jamaat-e-Islami Hind Vs. UOI. He referred to the evidence of PW30, 68,71,79,85 and 98 to submit that no material is on the record against RIF. Regarding statement under section 50 of the PMLA of Rauf Sherif and documents placed by PW79 and PW85, he submitted that ECIR 02/HIU/ 2018 was under challenge before the High Court of Delhi in a petition filed by PFI in which an order dated 03.02.2023 has been passed directing the ED to file “a chart showing nature of such FIRs and flow of proceeds of crime”.

**ARGUMENTS ON BEHALF OF ERSTWHILE MEMBERS AND OFFICE BEARERS OF NCHRO ADDRESSED BY MR. ADITYA WADHWA, LD. COUNSEL**

261. Written submissions were filed on behalf of NCHRO. In addition Mr. Aditya Wadhwa, Ld. Counsel has argued that out of the 881 FIRs relied upon by the UOI in its Background Note and Annexures, the NCHRO is not accused in any single case. He submitted that section 2(1)(p) of the UAPA defines an unlawful association to be an association which has for its object or encourages or any of its members are involved in unlawful activity. He submitted that providing legal aid to the PFI by the NCHRO cannot be termed as aiding or assisting unlawful activities. He submitted that NCHRO provides legal aid to several organizations and persons and not only to PFI. He submitted that there are hardly any common members between PFI and NCHRO. He submitted that NCHRO has about 1500 members out of whom only two are common to PFI i.e. K.A Rauf Sherif and P. Koya. The same cannot be assumed to be proof of allegation that PFI exercises deep and pervasive control over the activities of NCHRO. He referred to the observation of the Supreme Court in the case of Jamaat-e-Islami Hind Vs. UOI and submitted that the standard of proof to be produced by the Central Govt to declare an association as unlawful has to be “beyond reasonable doubt” as declaring an association as unlawful under section 3(1) of the UAPA contravenes the fundamental right of the association guaranteed under Article 19 of the Constitution of India. He submitted that following such standard would act as a safeguard against the abuse of power by the Central Govt in declaring association as unlawful under section 3 of the UAPA. He relied on the evidence of PW26, 30, 32,45,67,79,93 and 100 to submit that there was no material admissible under the Evidence Act which could be relied upon by the Central Govt before this Tribunal. Nothing has been produced to show that NCHRO was an associate or affiliate of PFI. Rest of his submissions were legal which he submitted that had already been argued on behalf of erstwhile members of PFI by Sh. Ashok Agrwaal, Ld. Advocate. He relied upon the following case law in his support: -

- (i) An Advocate Vs Bar Council of India, AIR 1989, SC 245;
- (ii) The Institute of Chartered Accountants of India Vs. C.H. Padliya and Ors 1976 SCC Online MP 50
- (iii) Sarojini Ramaswamy Vs Union of India 1992 4 SCC 509



(iv) Bennion on Statutory Interpretation

(v) *Jamaat-e-Islami Hind and Ors Vs. UOI* (1995) 1 SCC 428

**ARGUMENTS ON BEHALF OF ERSTWHILE MEMBERS AND OFFICE BEARERS OF NATIONAL WOMEN'S FRONT ADDRESSED BY MR. KARTIK VENU, LD. COUNSEL**

262. Mr. Kartik Venu, Ld. Counsel has submitted that he adopts the legal arguments addressed by Mr. Ashok Agrawal regarding applicability of the Indian Evidence Act to the proceedings of the Tribunal. In addition he submitted that the allegations against the NWF were that it was in conspiracy with PFI and other organizations. He submitted that NWF cannot establish that it was not in conspiracy with the PFI or other organizations as it cannot prove the negative. He submitted that NWF was a small grassroot organization which was involved in philanthropic activities. He submitted that the Central Govt has introduced new cases to support the ban at the stage of evidence. It has been unable to establish sufficient cause to ban NWF even by preponderance of probabilities. He submitted that it was settled law that in civil proceedings, evidence cannot be led beyond pleadings. He submitted that the Central Govt has not laid ground of privilege of confidential information in the notification or even in the Background Note filed before the Tribunal and as such the Central Govt now cannot rely on confidential material to support its case and the Central Govt is stopped from doing so. He submitted that there was no qualification laid down or bar on the membership of PFI. He submitted that the PFI can also admit women as its members. He submitted that the Central Govt has failed to establish any linkage between the NWF and PFI and relied on the evidence of PW6, 30, 43, 33, 32, 45, 51, 58, 63, 66, 67, 68, 74, 80 and 93. He relied on the following case laws in his support: -

(i) *Jamaat-e-Islami Hind Vs. UOI* (1995) 1 SCC 428;

(ii) *Bharat Barrel Drum & Manufacturing Company Vs. Amin Chand Payrelal* (1999) 3 SCC 35;

(iii) *MS Narayana Menon Vs State of Kerala* 2006 6 SCC 39;

(iv) *Subramanian Vs Public Prosecutor* 1956 1 WLR 965;

(v) *Kundan Singh Vs State* 2015 SCC Online Del 13647;

(vi) *Tahsildar Singh Vs State of Uttar Pradesh* (1962) 1959 Supp (2) SCR 875;

(vii) *Ram Kishan Vs. State of Uttar Pradesh* 2005 9 SCC 736;

(viii) *State of Rajasthan Vs. Raja Ram* 2003 8 SCC 180.

**ARGUMENTS ON BEHALF OF ERSTWHILE MEMBERS AND OFFICE BEARERS OF EMPOWER INDIA FOUNDATION AND REHAB FOUNDATION KERALA ADDRESSED BY MR. P.A. NOOR MUHAMED, LD. COUNSEL**

263. Mr. P.A. Noor Muhamed, Ld. Counsel adopted the legal submissions addressed by Mr. Ashok Agrawal on the applicability of the Evidence Act before this Tribunal. He submitted that PW98 being a Deputy Secretary was not a competent witness to depose on behalf of the Central Govt. For this purpose he relied on Rule 11 of the Transaction of Business Rules of the Govt of India. He referred to para 30 of the judgment of the Supreme Court in the case of *Jamaat-e-Islami Hind Vs. UOI* and submitted that a witness examined on behalf of the Govt is required to depose on the basis of personal knowledge and not record. He submitted that PW98 in his cross examination had admitted that his evidence and deposition was based on records and not personal knowledge. As such his evidence cannot be considered. He submitted that EIF and RFK are independent organizations not connected to the PFI and no material was produced by the Central Govt in this regard. He submitted that the witness examined on behalf of EIF and RFK produced documents regarding an action plan of 2047 which has been misused by the Central Govt to come up with a fabricated document also termed as 2047. He filed written submissions in support of his arguments and relied on the observations of the Supreme Court in the cases of *Deepak Ananda Patil Vs The State of Maharashtra & Ors* 2023 Livelaw (SC) 30, *ECIL Hyderabad Vs. B. Karunakar* (1993) 4 SCC 727 and *Ram Jethmalani Vs UOI* (2011) 8 SCC 1 in which it has been held that an adjudicatory body cannot base its decision on any material unless the person against whom it is sought to be utilized has been apprised of it and given an opportunity to respond to it and that withholding information from parties or seeking to present facts in a light favourable to the State were destructive to the guarantee under Article 32 (1) of the Constitution.

**ANALYSIS AND FINDINGS**

264. The Tribunal has gone through the entire material produced by the Union of India including the evidence as well as the evidence of the respondents and the materials placed by them. The Tribunal has also considered in detail the oral and written submissions made by Sh. Tushar Mehta, learned SG, Sh. S. V. Raju, learned ASG, Sh. Ashok Agrawal, Ms. Sridevi Panikkar, Sh. Mobin Akhtar, Sh. Adit Pujari, Sh. Aditya Wadhwa, Sh. Kartik Venu and Mr. P. A. Noor Mohammad, learned counsel for the Banned Organisations. The Tribunal proposes to give its finding under the following heads:

**1. The Constitutional Scheme****2. Procedure adopted by the Tribunal**

(i) **Objections raised by Ld. Counsels for the Banned Organisations on the point of admissibility of evidence**

(ii) **Claim of Privilege by Union of India**

**3. Appreciation of Evidence led by Union of India and Banned Organisations.****4. Conclusion.****THE CONSTITUTIONAL SCHEME**

265. The Constitution of India starts with its Preamble which reads as under:-

*"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:*

*JUSTICE, social, economic and political;*

*LIBERTY of thought, expression, belief, faith and worship;*

*EQUALITY of status and of opportunity;*

*and to promote among them all*

*FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation."*

266. The preamble, as stated above, indicates the source from which the Constitution comes, i.e., we the people of India and it is the guide to students of law while dealing with legal provisions. It also reflects the ideals and aspirations of the citizens of India which the constitution makers intended to rely on while enacting its provisions. The Constitution is the Grundnorm and is the guiding star. Any law which is not in consonance with the Constitution cannot stand the test of validity. The word "secular" was inserted in the Preamble of the Constitution vide the Forty-second Amendment Act, 1976. The intention behind the same has been explained in its Statement of Objects and Reasons, i.e., "to spell out expressly the high ideas of socialism, secularism and the integrity of the nation" because "these institutions have been subjected to considerable stresses and strains and vested interests and have been trying to promote their selfish ends to the great detriment of public good". Eminent Jurist Durga Das Basu, his book 'Shorter Constitution of India' 16<sup>th</sup> edition has specifically stated that "In short, the object of the Government, in making this amendment, was to make explicit what was already provided in the Constitution, but which, in the absence of such emphasis, was going to be denigrated by "vested interests" "to promote their selfish ends". "

267. Article 19, which is part of Chapter 4 of the Constitution of India, which contains Fundamental Rights, is stated to be the heart and soul of the Constitution and provides for Right to Freedom. Article 19(c) provides as under:-

*"19. Protection of certain rights regarding freedom of speech etc*

*(1) All citizens shall have the right*

*(a) .....*

*(b) .....*

*(c) to form associations or unions (or cooperative societies);*

*(d) .....*

*(e) .....*

*(f) omitted*

*(g) .....*

268. Article 19 (1) (c) has to be read along with Article 19(4) of the Constitution, which reads as under:-

*"(4) Nothing in sub clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub clause."*

269. The words "**the sovereignty and integrity of India or**" were inserted in Article 19(4) of the Constitution of India vide the Constitution (Sixteenth Amendment) Act, 1963. In order to implement the provisions of the 1963 Act, the legislature enacted the Unlawful Activities (Prevention) Act, 1967. It is mentioned in the introduction to the Act that the National Integration Council appointed a Committee on National Integration and Regionalization, *inter alia*, with the aspect of putting reasonable restrictions in the interest of sovereignty and integrity of India. Pursuant to the acceptance of the recommendations of the Committee, the Constitution (Sixteenth Amendment), Act 1963 was enacted to impose, by law reasonable restrictions in the interest of *sovereignty and integrity* of India on the (i) freedom

of speech and expression; (ii) right to assemble peacefully and without arms; and (iii) right to form associations/unions. Further the object of the Act as stated in the Bill was to make powers available for dealing with activities directed against the integrity and sovereignty of India.

270. Thus the key word behind the enactment of this provision in the form of restrictions, as provided under Article 19 of the Constitution and further, Article 19(4) is “sovereignty” and “integrity” of India. This country in accordance with the spirit of the Constitution has always followed the principles and policy of “secularism” without any fail. The credentials of our country in this regard is acknowledged and respected globally. Thus this Tribunal will proceed further and examine the validity of the Notification No.S.O.4559 (E) dated 28.09.2022 in light of the preamble and the relevant provisions of the Constitution.

#### **PROCEDURE ADOPTED BY THE TRIBUNAL**

271. The Central Government in exercise of its powers under Section 3 of UAPA issued the Notification in question declaring PFI and its associate/affiliates/fronts as unlawful on the grounds mentioned in the same which have already been referred to and are not reproduced herein for the sake of brevity. The Central Government also exercised its power under proviso to section 3 sub-section (3) banning the said organizations with immediate effect.

272. The Central government in pursuance of power conferred under Section 4, referred the notification to this Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful. Section 5 sub-section (1) provides that the person, to be appointed as Tribunal, shall be a judge of the High Court. In pursuance to Section 4 (2), the associations were called upon by notice in writing to show cause, within thirty days from the date of the service of such notice that why the association should not be declared unlawful. It has already been discussed in detail that such associations/its associates/affiliates/fronts did not file their objections within 30 days and filed it much beyond the period of time which was not permissible in law. The objection of learned ASG in this regard has duly been upheld. However, only in order to know the perspective of the association, this Tribunal has read and referred to their objections.

273. The Tribunal in exercise of power under Section 4 (3) of UAPA held an inquiry in the manner provided in Section 9. Section 9 provides that the procedure to be followed by the Tribunal in holding any inquiry under sub-section (3) of section 4, so far as may be, be the procedure laid in the Code of Civil Procedure, 1908. The Tribunal has also been empowered to call for such further information as it may consider necessary from the Central Government or from any office bearer or member of the association. Section 5 sub-section (6) provides that the Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;*
- (b) the discovery and production of any document or other material object producible as evidence;*
- (c) the reception of evidence on affidavits; (d) the requisitioning of any public record from any court or office; (e) the issuing of any commission for the examination of witnesses.*
- (d) the requisitioning of any public record from any court or office;*
- (e) the issuing of any commission for the examination of witnesses.*

274. The Tribunal after conducting such inquiry is duty bound to ‘Adjudicate’ that whether or not there is ‘Sufficient Cause’ for declaring the association to be made unlawful. The law envisages and possibly taking into account the seriousness of the issue and the fact that the fundamental right to form association is being curtailed, Tribunal has been mandated to adjudicate within a period of six months from the date of the notification under sub-section (1) of Section 3. The Tribunal, on the basis of such inquiry, may either confirm the declaration made in the notification or cancel the same.

275. Before proceeding further it is also necessary to mention that section 5 sub-section (7) provides that any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XVI of the Code. Rule 3 provides that the Tribunal in holding an inquiry under sub-section 3 of Section 4 shall subject to the provisions of sub-rule (2) follow as far as practicable, the rules of evidence laid down in the Indian Evidence Act. Rule 3 sub-rule (2) provides that notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), where any books of account or other documents have been produced before the Tribunal by the Central Government and such books of account or other documents are claimed by that Government to be of a confidential nature then, the Tribunal as the case may be shall not—(a) make such books of account or other documents a part of the records of the proceedings before it; or (b) allow inspection of, or grant a copy of, the whole of or any extract from, such books of account or other documents by or to any person other than a party to the proceedings before it.

276. Rule 5 of UAPA Rules also provides that with every reference made to a Tribunal under sub-section (1) of section 4, it shall be accompanied by-

- (i) a copy of the notification made under sub-section (1) of section 3, and
- (ii) all the facts on which the grounds specified in the said notification are based.

277. The proviso to Rule 5 provides that nothing in this rule shall require the Central Government to disclose any fact to the Tribunal which that Government considers against the public interest to disclose.

278. The procedure to be adopted by the tribunal has come up for discussion before the Hon'ble Supreme Court in the case of *Jamaat-E-Islami Hind v. Union of India* wherein it has been held as under:

**“11. Section 4 deals with reference to the Tribunal. Sub-section (1) requires the Central Government to refer the notification issued under sub-section (1) of Section 3 to the Tribunal “for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful”. The purpose of making the reference to the Tribunal is an adjudication by the Tribunal of the existence of sufficient cause for making the declaration. The words ‘adjudicating’ and “sufficient cause” in the context are of significance. Sub-section (2) requires the Tribunal, on receipt of the reference, to call upon the association affected “by notice in writing to show cause” why the association should not be declared unlawful. This requirement would be meaningless unless there is effective notice of the basis on which the declaration is made and a reasonable opportunity to show cause against the same. Sub-section (3) prescribes an inquiry by the Tribunal, in the manner specified, after considering the cause shown to the said notice. The Tribunal may also call for such other information as it may consider necessary from the Central Government or the association to decide whether or not there is sufficient cause for declaring the association to be unlawful. The Tribunal is required to make an order which it may deem fit “either confirming the declaration made in the notification or cancelling the same”. The nature of inquiry contemplated by the Tribunal requires it to weigh the material on which the notification under sub-section (1) of Section 3 is issued by the Central Government, the cause shown by the Association in reply to the notice issued to it and take into consideration such further information which it may call for, to decide the existence of sufficient cause for declaring the Association to be unlawful. The entire procedure contemplates an objective determination made on the basis of material placed before the Tribunal by the two sides; and the inquiry is in the nature of adjudication of a lis between two parties, the outcome of which depends on the weight of the material produced by them. Credibility of the material should, ordinarily, be capable of objective assessment. The decision to be made by the Tribunal is “whether or not there is sufficient cause for declaring the Association unlawful”. Such a determination requires the Tribunal to reach the conclusion that the material to support the declaration outweighs the material against it and the additional weight to support the declaration is sufficient to sustain it. The test of greater probability appears to be the pragmatic test applicable in the context.”**

12. Section 5 relates to constitution of the Tribunal and its powers. Sub-section (1) of Section 5 clearly provides that no person would be appointed “unless he is a Judge of a High Court”. **Requirement of a sitting Judge of a High Court to constitute the Tribunal also suggests that the function is judicial in nature.** Sub-section (7) says that any proceeding before the Tribunal shall be deemed to be a “judicial proceeding” and the Tribunal shall be deemed to be a “Civil Court” for the purposes specified. Section 6 deals with the period of operation and cancellation of notification. Section 8 has some significance in this context. Sub-section (8) of Section 8 provides the remedy to any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section 4, by an application made to the District Judge who is required to decide the same after giving the parties an opportunity of being heard. This also indicates the judicial character of the proceeding even under Section 8. Section 9 prescribes the procedure to be followed in the disposal of applications under the Act. Provisions of Section 9 of the Act lay down that the procedure to be followed by the Tribunal in holding an inquiry under sub-section (3) of Section 4 or by the District Judge under Section 8 shall, so far as may be, be the procedure prescribed by the Code of Civil Procedure for the investigation of claims. Sections 10 to 14 in Chapter III relate to “offences and penalties” which indicate the drastic consequences of the action taken under the Act including a declaration made that an association is unlawful. The penal consequences provided are another reason to support the view that the inquiry contemplated by the Tribunal under Section 4 of the Act is judicial in character since the adjudication made by the Tribunal is visited with such drastic consequences.

13. In our opinion, the above scheme of the Act clearly brings out the distinction between this statute and the scheme in the preventive detention laws making provision therein for an Advisory Board to review the detention. The nature of the inquiry preceding the order made by the Tribunal under Section 4 of the Act, and its binding effect, give to it the characteristic of a judicial determination distinguishing it from the opinion of the Advisory Board under the preventive detention laws.

14. In Section 4, the words ‘adjudicating’ and ‘decide’ have a legal connotation in the context of the inquiry made by the Tribunal constituted by a sitting Judge of a High Court. **The Tribunal is**

**required to 'decide' after "notice to show cause" by the process of 'adjudicating' the points in controversy. These are the essential attributes of a judicial decision.**

15. In Volume 2 of the Words and Phrases, Permanent Edition, by West Publishing Co., some of the meanings given of "adjudicate; adjudication" are as under:

"An 'adjudication' essentially implies a hearing by a court, after notice, of legal evidence on the factual issue involved.

\* \* \*

Generally, 'adjudication' of any question implies submission of question to a court of record."

16. Volume I of the Shorter Oxford English Dictionary on Historical Principles, 3rd Edn., says, the word 'adjudicate' means "to try and determine judicially".

17. The reference to the Tribunal is for the purpose of adjudicating whether or not there is sufficient cause for declaring the Association unlawful. **Obviously the purpose is to obtain a judicial confirmation of the existence of sufficient cause to support the action taken. The confirmation is by a sitting High Court Judge after a judicial scrutiny of the kind indicated.** This being the nature of inquiry and the purpose for which it is conducted, the materials on which the adjudication is to be made with opportunity to show cause given to the Association, must be substantially in consonance with the materials required to support a judicial determination. Reference may be made at this stage to the decision in *State of Madras v. V.G. Row*<sup>L</sup> on which both sides place reliance."

19. **In our opinion, the test of factual existence of grounds amenable to objective determination by the court for adjudging the reasonableness of restrictions placed on the right conferred by Article 19(1)(c) to form associations, in the scheme of the Unlawful Activities (Prevention) Act, 1967, is equally applicable in accordance with the decision in V.G. Row<sup>L</sup>.** It is, therefore, this test which must determine the meaning and content of the adjudication by the Tribunal of the existence of sufficient cause for declaring the association to be unlawful under the Act. A different construction to equate the requirement of this Act with mere subjective satisfaction of the Central Government, when the power to declare an association to be unlawful depends on the factual existence of the grounds which are amenable to objective determination, would result in denuding the process of adjudication by the Tribunal of the entire meaning and content of the expression 'adjudication'."

279. The Supreme Court in the case of *Jamaat-E-Islami Hind v. Union of India* (supra) held that the task assigned to the Tribunal under section 4 was adjudicatory as the Tribunal is required to arrive at the conclusion as to whether there was sufficient cause to declare the association as unlawful. For this purpose the Tribunal is required to consider the material on which the notification has been issued by the Central Govt under section 3(1) of the UAPA, the cause shown by the association in response to the notice and also any further information which the Tribunal may call for the purpose of the adjudication. It was held that the Tribunal is required to objectively determine the issue on the basis of material placed before the Tribunal by the two sides i.e. the Central Govt and the association concerned. The enquiry contemplated is an adjudication of a lis between two parties on the principles of preponderance of probabilities. It was held that the purpose of the enquiry was to obtain a judicial confirmation of the existence of sufficient cause to declare the association as unlawful. It was held that the very fact that the Tribunal consists of a sitting Judge of a High Court itself indicated that the function of the Tribunal was adjudicatory in nature. The test which was to be applied was factual existence of grounds which should be amenable to objective determination by the Court for judging reasonableness of restrictions placed on the fundamental right conferred vide Article 19(1)(c) of the Constitution of India to form associations within the scheme of the UAPA.

280. This Tribunal is clear on certain propositions. Firstly, it is neither a civil trial nor a criminal proceeding; secondly, this Tribunal is not going to award any conviction to an individual; thirdly, the UAPA itself in its wisdom has used the word 'inquiry' repeatedly in Section 4 sub-section (3), Section 5 sub-section (6), Section 9 and Rule 3 of UAPA Rules. Last but not the least, Section 4 sub-section (3) mandates the inquiry to be conducted as expeditiously as possible and in any case within a period of six months. Thus, the legislature was of the considered opinion that such a sensitive issue which involves the fundamental right of an individual to form association has to be decided within six months, only an inquiry is to be conducted. The words of the legislature are to be read very carefully and followed strictly. Rule 3 of the Rules that is the reason provides "as far as practicable" the rule of evidence laid down in the Indian Evidence Act. It is pertinent to mention here that in the background note, the Union of India in Annexure 3 has given a list of such number of cases. Would it have been possible to lead the evidence in regard to all of such cases or in the manner as strictly provided in the Indian Evidence Act and the CPC? The answer would be an obvious NO. It is also pertinent to mention that there is no dispute about the proposition that the Tribunal is to "adjudicate" about "sufficient cause" on the scale of "preponderance of probability".

**OBJECTIONS OF THE BANNED ORGANIZATIONS ON ADMISSIBILITY OF EVIDENCE**

281. The Union of India while leading its evidence to justify their ban has examined 100 witnesses which include police officers, officers of the ED, officers from Banks, Court Clerk and one witness from the Ministry of Home Affairs. These witnesses have predominantly deposed regarding three categories of the cases i.e. (i) cases in which PFI, its office bearers and its members are accused; (ii) cases in which office bearers and members of PFI are accused and (iii) cases in which members of the PFI are accused.

282. The Union of India besides placing on record the documents through the Investigating Officers also took pains to examine the Officers who had recorded the statements of the witnesses as well as the confessions of such accused persons. Predominantly, these witnesses have deposed that either the witnesses have stated that the accused persons are members or officer bearers of PFI, or the accused themselves in their disclosure statement have admitted that they are members of the PFI. The Union of India has also proved certain recoveries from such accused persons, which includes flags of PFI, banners, explosives and certain material/documents which including document titled "India - Towards Islamic Rules, 2047". The Union of India has also proved through such witnesses certain video clips to show that the members of PFI were raising certain slogans inciting communal disharmony. The banned organizations have consistently been taking an objection that such statements/confessional statements/recoveries are not admissible in view of Section 24, 25 & 26 of Indian Evidence Act and Section 162 of Cr.P.C.

283. As per the mandate of Section 4 of the UAPA, the Tribunal has a duty to adjudicate whether or not there is "Sufficient Cause" available to the Central Government when Notification No. S.O 4559 (E) dated 27.09.2022 was issued. This Tribunal cannot enter into the arena of the discussion that whether the documents produced can stand judicial scrutiny during the trial or not. Any procedural irregularities or defects in such material are to be tested by the concerned learned Trial Court within the parameters of the Indian Evidence Act, 1872 and other relevant laws. The duty of the Tribunal is to satisfy itself whether these documents can be relied upon to ascertain "sufficiency of cause" and whether the agencies responsible for the enforcement of law and order could or could not have ignored the same for recommending suitable action under the Unlawful Activities (Prevention) Act, 1967. Even an innocuous-looking statement in a simple case may lead to horrifying and disastrous consequences. Thus, for the purpose of assessing the sufficiency of the cause, the Tribunal is duty-bound to look into the entire materials / incidents.

284. It has to be kept in mind that in the case of an unlawful association or its members, the activities are conducted under a cover and in clandestine manner. Such activities rarely and in most cases are not carried out in open and full public view. Such associations carry out their activities under camouflage, deceit and after adopting cover-up tactics. In such cases, the general public also does not come forward to testify and give evidence due to fear and threat of reprisal. In order to unearth the truth, the Tribunal has to pierce through the veil of secrecy to reach the goal. Therefore, in such cases, some inferences have to be drawn from the acts done over time for which evidence has been produced about the indulgence of the organisation or its members regarding their unlawful activities and unlawful associations.

285. This Tribunal has gone through the view taken by the earlier Tribunals on this point in similar proceedings. Hon'ble Mr. Justice Suresh Kait, in his report dated 30<sup>th</sup> July, 2014 in **Union of India v. Students Islamic Movements of India**, *inter alia* held as under:

*"187. I have carefully gone through the judgments cited at the Bar. I have also been taken through the reports of previous Tribunals on the subject.*

*188. The relevant Sections 25 and 26 of the Indian Evidence Act read as under:*

*25. Confessions to police officer not to be proved Non confession made to a police officer, shall be proved as against a person accused of any offence.*

*26. Confession by accused while in custody of police not be proved against him- No confession made by any person whilst he is in the custody of a police-officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.*

*189. The import of the aforesaid two sections is unambiguous. Confession made by an accused before police officers are inadmissible in evidence, which cannot be brought on record by prosecution "to obtain conviction". So far as their applicability to the present proceedings is concerned, it is very obvious that these proceedings are not a trial "to obtain conviction" of any accused. Even otherwise, the Rules of Evidence as contained in the Indian Evidence Act are not stricto sensu applicable to these proceedings. Their applicability is confined by use of the term "as far as practicable".*

*190. The term 'as far as practicable' in Rule 3 (1) of the Rules has to be interpreted in the context of the purpose and object of the Act, which is to 'prevent' unlawful activities by imposing reasonable restrictions on freedom of speech and expression; right to assemble peacefully and without arms; and right to form association or unions. Thus, the object is preventive in character by restricting certain freedoms, which are otherwise available to individuals and associations. The process of restricting of certain freedoms will entail a restrictive interpretation of concerned Acts and Statutes, which regulate*



such freedoms. Thus, when the Legislature used the terms 'as far as practicable' in sub-rule (1) of Rule 3 of the Rules, the intent cannot be read of widening the scope of applicability of the Indian Evidence Act. It can only be interpreted to mean restrictive applicability of the Indian Evidence Act.

191. Furthermore, under Section 25 of the Evidence Act, the restrictions is limited to the use of confessional statement by the prosecution to obtain conviction. As noted above, the proceedings before the Tribunal are not in nature of a trial of any accused to secure conviction. Even the Hon'ble Supreme Court in *Jamaat-e-Islami Hind* (supra) has observed, in para 22, that the materials need not be confined only to legal evidences in the strict sense. The confessions recorded under Section 161 and 164 of Cr.P.C. may not stand the test of a judicial scrutiny and may ultimately result in the acquittal of the accused but so far as their relevance for the purposes of reliance by the Tribunal or the Central Government at the time of imposing the ban, they are important indicators of the activities and cadres of the banned organization and, thus, cannot be ignored or brushed aside.

192. Accordingly, in view of the discussion above, the plea for discarding or disregarding the evidence adduced by way of confessional statements recorded under Section 161 Cr.P.C. by the police officer while the accused were in police custody, is rejected."

286. Hon'ble Ms. Justice Mukta Gupta, in her report dated 20<sup>th</sup> July, 2019 in ***Union of India v. Students Islamic Movements of India***, inter alia, held as under:

"7.18 Thus according to Section 25 and 26 of the Evidence Act confession made to a police officer or while in custody shall not be proved against a person accused of any offence in a trial of the accused for having committed the offence. These sections do not forbid use of the statement in a proceeding where the accused is not being tried for having committed the said offence or in a civil proceeding or ancillary proceeding like recovery etc.

7.19 Reiterating the law laid down by the Division Bench of High Court of Bombay in (1885) ILR 9 Bom 131 *Queen-Empress vs Tribhovan Manekchand And Ors.* Supreme Court in the decision reported as 1991 SCC (Crl.) 219 *Mahesh Kumar Vs. State of Rajasthan* noted the possible use of the statement made by an accused to the police officer and held:

"In *Queen Empress Vs. Tribhovan Manekchand* (ILR 9 BOM 131) a Division Bench of the Bombay High Court laid down that the statement made to the police by the accused persons as to the ownership of property which was the subject matter of the proceedings against them although inadmissible as evidence against them at the trial for the offence with which they were charged, were admissible as evidence with regard to the ownership of the property in an enquiry held by the Criminal Procedure Code. The same view was reiterated in *Pohlu Vs. Emperor* (AIR 1943 Lah 312 : 45 PLR 391 : 209 IC 546) where it was pointed out that though there is a bar in Section 25 of the Evidence Act, or in Section 162 Cr.P.C. for being made use of as evidence against the accused, this statement could be made use of in enquiry under Section 517 Cr.P.C. when determining the question of return of property. These two decisions have been followed by the Rajasthan High Court in *Dhanraj Baldeokishan Vs. State* (AIR 1965 Raj 238 : (1965) 2 Cr LJ 805 : 1965 Raj LW 289) and the Mysore High Court in *Veerabhadrappa Vs. Govinda* (ILR (1973) 23 Mys 64). In the present case, the amount in question was seized from the accused in pursuance of statements made by them under Section 27 of the Evidence Act. The High Court as well as the courts below have found the property to be the subject of theft and the acquittal of the accused is upon benefit of doubt. The accused persons disclaimed the stolen property and there is no reason why the same should not be returned to the owner i.e. the complainant to whom it belongs."

7.20 With regard to the admissibility of the statement recorded under Section 162 Cr.P.C. Supreme Court in the decision reported as 1981 (2) SCC 493 *Khatri & Ors. Vs. State of Bihar & Ors.* discussed the legal provisions as laid down in the decision reported as AIR 1959 SC 1012 *Tehsildar Singh & Anr. Vs. State of Uttar Pradesh* and held that the prohibition under Section 162 of the Cr.P.C. was applicable for use of the statement at any inquiry or trial in respect of any offence under investigation at the time when the statement was made, however, it does not bar or prohibit the use of the statement in any other proceedings, inquiry or trial. Thus, the bar is limited and would have no application for example in any civil proceedings or proceedings under Article 32 and 226 of the Constitution of India. Even in *Vinay D. Nagar* (supra) Supreme Court following the decision in *Khatri* (supra) held that the bar of Section 162 Cr.P.C. is in regard to the admissibility of the statement recorded of a person by the Police officer under Section 161 Cr.P.C. and by virtue of Section 162 Cr.P.C. would be applicable only where such statement is sought to be used at any inquiry or trial in respect of any offence under investigation at the time when such statement was made. If the statement made before a police officer in the course of an investigation under Chapter XII is sought to be used in any proceeding, inquiry or trial in respect of an offence other than which was under investigation at the time when such statement was made, the bar of Section 162 will not be attracted.

7.21 With reference to police diaries under Section 172 Cr.P.C., Supreme Court in *Khatri* (supra) held that the bar against production of use of case diary enacted in Section 172 Cr.P.C. is intended to operate only in an inquiry or trial for an offence and even this bar is a limited bar and does not operate if the case diary is used by the police officer for refreshing his memory or the criminal court uses it for the purpose of contradicting such police officer, in the said inquiry or trial. This bar also can have no application to a case diary as sought to be produced and used in evidence in a civil proceedings or in a proceeding under Article 32 or 226 of the Constitution of India and particularly when the party calling for the case diary is neither an accused nor is agent in respect of the offence to which the case diary relates. Referring to Section 35 of the Evidence Act it was held that the reports which are part of official record and relate to the fact in issue are relevant and admissible. The language of Section 35 is so clear that it is not necessary to refer to any decided cases on the interpretation of the Section. Supreme Court also noted with approval the decision reported as (1975) 3 SCC 646 *Kanwar Lal Gupta Vs. Amar Nath Chawla* wherein it was held that reports made by the officers of CID (Special Branch) relating to public meetings covered by them at the time of the election were relevant under Section 35 of the Evidence Act on the ground that they were "made by the public servants" in discharge of their official duty and they were relevant under the first part of Section 35 of the Evidence Act, since they contained statements showing what were the public meetings held by the first respondent. Supreme Court in *Khatri* (supra) also affirmed the Division Bench decision of Nagpur High Court reported as AIR 1952 Nagpur 271 *Chandu Lal Vs. Pushkar Rai* wherein it was held that reports made by revenue officers, though not regarded as having judicial authority where they expressed opinions on the private rights of the parties are relevant under Section 35 of the Evidence Act as reports made by public officers in the discharge of their official duties.

7.22 Contention of Mr. Ashok Aggarwal, Advocate that in the present proceedings as well the confessional statements made before the police can be used limited to the extent provided under Section 27 of the Evidence Act insofar as it relates distinctly to a fact discovered in consequence of the information received deserves to be rejected for the reason as noted above, the bar under Sections 25 and 26 of the Evidence Act is applicable only to the use of the statement of the accused so recorded in a trial of the accused for an offence. Further, the UAPA is a special enactment and Rule 3 provides for a modified procedure and indicates that as far as practicable the Rules of Evidence laid down in Indian Evidence Act, 1872 must be followed. It is for this special provision of Rule 3 UAP Rules that the Supreme Court in *Jamaat* (supra) held that the material before the Tribunal need not be confined only to legal evidence in the strict sense. Such a procedure would ensure that the decision of the Tribunal is an adjudication made on the points in controversy after assessing the credibility of the material it has chosen to accept without abdicating its functions by merely acting on the ipse dixit of the Central Government. Such a course would satisfy the minimum requirements of natural justice tailored to suit the circumstances of each case, while protecting the rights of the association and its members, without jeopardising the public interest. It was held that the same would ensure that the process of adjudication is not denuded of its content and the decision ultimately rendered by the Tribunal is reached by it on all points in controversy after adjudication. Referring to the decision in *John J. Morrissey and (7. Donald Booher v. Lou B. Brewer)* it was held :

23. In *John J. Morrissey and (7. Donald Booher v. Lou B. Brewer)*, 33 L.Ed. 2d 484, the United States Supreme Court, in a case of parole revocation, indicated the minimum requirements to be followed, as under:

" ..... Our task is limited to deciding the minimum requirements of due process. They include (a) written notice of the claimed violations of parole; (b) disclosure to the parolee of evidence against him; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a 'neutral and detached' hearing body such as a traditional parole board, members of which need not be judicial officers or lawyers; and (f) a written statement by the fact finders as to the evidence relied on and reasons for revoking parole. We emphasize there is no thought to equate this second stage of parole revocation to a criminal prosecution in any sense. It is a narrow inquiry; the process should be flexible enough to consider evidence including letters, affidavits, and other material that would not be admissible in an adversary criminal trial."

(Emphasis supplied)

7.23 Contention raised by Mr. Ashok Aggarwal, Advocate relying on the decision in *Nawab Khan Abbas Khan* (supra) that since UAPA imposes a restriction on the fundamental right to freedom of association and indirectly to freedom of speech and expressions, the provisions of UAPA and the rules made thereunder have to be strictly construed, has also been dealt by the Supreme Court in *Jamaat* (supra) wherein it was held:

“26. An authorised restriction saved by Article 19(4) on the freedom conferred by Article 19(1)(c) of the Constitution has to be reasonable. In this statute, provision is made for the notification to become effective on its confirmation by a Tribunal constituted by a sitting High Court Judge, on adjudication, after a show cause notice to the association, that sufficient cause exists for declaring it to be unlawful. The provision for adjudication by judicial scrutiny, after a show cause notice, of existence of sufficient cause to justify the declaration must necessarily imply and import into the inquiry, the minimum requirements of natural justice to ensure that the decision of the Tribunal is its own opinion, formed on the entire available material, and not a mere imprimatur of the Tribunal affixed to the opinion of the Central Government. Judicial scrutiny implies a fair procedure to prevent the vitiating element of arbitrariness. What is the fair procedure in a given case, would depend on the materials constituting the factual foundation of the notification and the manner in which the Tribunal can assess its; true worth. This has to be determined by the Tribunal keeping in view the nature of its scrutiny, the minimum requirement of natural justice, the fact that the materials in such matters are not confined to legal evidence in the strict sense, and that the scrutiny is not a criminal trial. The Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the association, if the public interest so requires.”

(Emphasis supplied)

7.24 The provisions of UAPA are clearly extraordinary and preventive in nature and thus provide for a departure from the regular procedure prescribed, in conformity with the preamble of the Act which notes it to be a special enactment for effective prevention of certain unlawful activities of individuals and associations as well as dealing with terrorist activities and for the matters connected therewith. The statement of objects and reasons underlines the purpose of the enactment empowering Parliament to impose by law reasonable restriction in the interest of sovereignty and integrity of India on the freedom of speech and expression, right to assemble peacefully and without arms and right to form association. The provisions of UAPA and the rules made thereunder itself provide for the procedure, for the purpose of taking evidence, in order to determine the sufficiency of grounds, for upholding the ban. Since UAPA is a special enactment, its provisions and the special procedure prescribed thereunder, has to prevail on the general provisions of law applicable. 7.25 From the perusal of the provisions as noted above as also the law on the point laid down in various decisions and since the inquiry before this Tribunal is not in the nature of adjudicating the guilt of the accused but to determine the sufficiency of material before the Central Government to declare SIMI as an unlawful association, the confessional statements made by the accused before the police officers as also the search lists and seizure memos are admissible in evidence before this Tribunal and can be used for determining the sufficiency of the material before the Central Government to make the declaration.”

287. This Tribunal is conscious of the fact that these findings having been made in judicial proceedings as provided under section 5(7) of the UAPA and have persuasive value as such findings were rendered in identical proceedings.

288. In respect of the confession made by the accused persons, learned ASG has rightly argued that there is no offence which this Tribunal is trying and therefore, the confession even of a fact that a particular person has committed a particular offence cannot therefore be treated as a confession for the purposes of the inquiry before this Tribunal. The inquiry before this Tribunal is for the limited purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful. It was submitted that the persons whose so-called alleged confessions are sought to be treated as barred u/s 25 and 26 of the Evidence Act are not even parties before this Tribunal and they are not being tried for any offence before this Tribunal.

289. In this regard reference can be made to the case of **Palvinder Kaur vs. State of Punjab** 1952 SCC OnLine SC 90: AIR1952SC 354 in which the Supreme Court in paragraph 16, after referring to the case of **Pakala Narayana Swami v. King Emperor** [AIR 1939 SC 47], has held that ‘confession’ must either admit in terms the offence, or at any rate substantially all the facts which constitute the offence. An admission of a gravely incriminating fact, even a conclusively incriminating fact, is not of itself a confession. In **Veera Ibrahim vs. The State of Maharashtra** (1976) 2SCC 302 the Supreme Court in Paragraph 15 has stated as follows:

*“15. In the present case, facts (i), (iv) and (vi) have not been established. Firstly, the statement in question is not a “confession” within the contemplation of s. 24. It is now well-settled that a statement in order to amount to a “confession” must either admit in terms the offence, or at any rate substantially all the facts which constitute the offence. An admission of an incriminating fact, howsoever grave, is not by itself a confession. A statement which contains an exculpatory assertion of some fact, which if true, would negative the offence alleged, cannot amount to a confession (see **Pakala Narayana v. R.**; **Palvinder Kaur v. State of Punjab**; **Om Prakash v. State.**”*

290. In **Ajay Singh vs. State of Maharashtra** (2007) 12SCC 341 the Hon’ble Supreme Court in paragraph 10 has held as under:-

*"10. The expression 'confession' is not defined in the Evidence Act, 'Confession' is a statement made by an accused which must either admit in terms the offence, or at any rate substantially all the facts which constitute the offence. The dictionary meaning of the word 'statement' is 'act of stating; that which is stated; a formal account, declaration off acts etc.' The word 'statement' includes both oral and written statement. Communication to another is not however an essential component to constitute a 'statement'. An accused might have been over- heard uttering to himself or saying to his wife or any other person in confidence. He might have also uttered something in soliloquy. He might also keep a note in writing. All the aforesaid nevertheless constitute a statement. If such statement is an admission of guilt, it would amount to a confession whether it is communicated to another or not. ... "*

291. **Ld. ASG** has further submitted that in **Khatri & Others (IV) vs. State of Bihar and Others (1981) 2SCC 493**, after referring to section 162 of the CrPC particularly the words in sub-section (1), at an inquiry or trial in respect of any offence under investigation at the time when such statement was made, the Supreme Court has said as follows:

*"4.... If the statement made before a police officer in the course of an investigation under chapter XII is sought to be used in any proceeding other than an inquiry or trial or even at an inquiry or trial but in respect of an offence other than that which was under investigation at the time when such statement was made, the bar of Section 162 would not be attracted."*

*"But this protection is unnecessary in any proceeding other than an inquiry or trial in respect of the offence under investigation and hence the bar created by the section is a limited bar. It has no application, for example in acivilproceedingorinaproceedingunderArticle32or 226 of the Constitution and a statement made before a police officer in the course of investigation can be used as evidence in such proceeding, provided it is otherwise relevant under the Indian Evidence Act."*

*"It is obvious, therefore, that even a statement made before a police officer during investigation can be produced and used in evidence in a writ petition under Article 32 provided it is relevant under the Indian Evidence Act and section 162 cannot be urged as a bar against its production or use."*

*"This bar can obviously have no application where a case diary is sought to be produced and used in evidence I na civil proceeding or in a proceeding underArticle32or226 of the Constitution and particularly when the party calling for the case diary is neither an accused nor his agent in respect of the offence to which the case diary relates."*

292. In **Doman Mahton vs. Surajdeo Prasad**, 1968 SCC OnLine 111 the Division Bench of the Patna High Court has inter-alia held as under:

*"6. There can be no doubt that the provisions of Section 162 of the Code of Criminal Procedure do not apply to statements made in an investigation other than that which results in a trial in which those statements are sought to be used. The object is obvious, as will appear from the provisions of Section 145 of the Evidence Act which reads thus:-*

*"A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him."*

*7. Further, if it is intended to impeach the credit of a witness, as is provided under Section 155 of the Evidence Act, then the credit of a witness may be impeached by the adverse party, or, with the consent of the Court, by the party who calls him, by various ways, one of which is as provided by Sub-section (3) of Section 155 of the Evidence Act; namely, by proof of former statements inconsistent with any part of his evidence, which is liable to be contradicted.*

*8 Impeaching the credit of a witness, either under Section 145 of the Evidence Act (written statements), or under Section 155 thereof (oral statements), can be done by drawing his attention to those statements, whether written or oral, Further, those parts of the statement before the Police, which are intended to be used in cross-examination, to contradict the witness, must be proved and brought on the record. This can ordinarily be done by the admission of the witness that he had made the statement, or, by examination, of the Police Officer who recorded it.*

*9. For these reasons, we are satisfied that the learned Munsif Magistrate was In error in not permitting the petitioner to draw the attention of the witness, for the purpose of cross-examination, to his earlier statements made before the Police, which was reduced into writing, or submitted by the witness in writing before the Police, in the counter- case. Accordingly, the order of the learned Munsif Magistrate dated 23-1-1968 in this respect is set aside, and the cross-examination of Ramgovind Prasad (P. W. 5) on the statements said to be made by him at the time of the investigation into the counter-case, must proceed. The application is, therefore, allowed."*

293. Learned ASG has also submitted that all the extra judicial confessions have been proved by the persons to whom they were made and therefore is not hearsay evidence because it is the evidence of the person who personally heard the same. Reference has been made to Section 60 of The Indian Evidence Act, 1872 which reads as under:

**“Section 60. Oral evidence must be direct.—**Oral evidence must, in all cases whatever, be direct; that is to say—

*If it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it;*

*If it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it;*

*If it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner;*

*If it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds:*

*Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable:*

*Provided also that, if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.”*

294. Ld. ASG has further relied upon *Piara Singh v. State of Punjab*, (1977) 4 SCC 452, the Hon`ble Supreme Court inter-alia held as under: -

*“...There is also the evidence of Balbir Singh, PW17, who is a Sarpanch of the village and an independent witness and who proves that the appellant Piara Singh had made an extra judicial confession before him in which he admitted to have committed the murder of the deceased Surjit Singh alongwith his companions Kashmir Singh, Gian Singh and Joginder Singh. This witness also proves that Kashmir Singh on being narrated by the details made a disclosure which resulted in the recovery of the Kirpan from the sugarcane field of Meja Singh for which a search list was prepared and the Kirpan was also found stained with human blood...”*

*“...The evidence of the eyewitnesses is fully corroborated by the medical evidence, the evidence of the recoveries, the evidence of the Ballistic Expert and the evidence of PW Balbir Singh who deposed regarding the extra judicial confession made by the accused Piara Singh. The learned Sessions Judge regarded the extra judicial confession to be a very weak type of evidence and therefore refused to rely on the same. Here the learned Sessions Judge committed a clear error of law. Law does not require that the evidence of an extra judicial confession should in all cases be corroborated. In the instant case, the extra judicial confession was proved by an independent witness who was a responsible officer and who bore no animus against the appellants. There was hardly any justification for the Sessions Judge to disbelieve the evidence of Balbir Singh particularly when the extra judicial confession was corroborated by the recovery of an empty from the place of occurrence.”*

295.Ld. ASG further submitted that in *Baskaran v. State of T.N.*, (2014) 5 SCC 765, the Hon`ble Supreme Court inter-alia held that: -

*“...The issue before us is whether the appellants can be convicted solely on the basis of these two extra-judicial confessions, which was witnessed by PW11 and PW14 who have turned hostile with regard to some portions of the prosecution evidence.”*

*“17.It is no doubt true that this Court time and again has held that an extra-judicial confession can be relied upon only if the same is voluntary and true and made in a fit state of mind. The value of the evidence as to the confession like any other evidence depends upon the veracity of the witness to whom it has been made. The value of the evidence as to the confession depends on the reliability of the witness who gives the evidence. But it is not open to any court to start with the presumption that extra-judicial confession is insufficient to convict the accused even though it is supported by the other circumstantial evidence and corroborated by independent witness, which is the position in the instant case. The courts cannot be unmindful of the legal position that if the evidence relating to extra-judicial confession is found credible after being tested on the touchstone of credibility and acceptability, it can solely form the basis of conviction.*

296.Ld. ASG has submitted that in *State of U.P. v. M.K. Anthony*, (1985) 1 SCC 505-it was a case where an extra judicial confession was made to a neighbour that the accused had committed the murder of his wife and Supreme Court inter-alia held as under: -

*"15. There is neither any rule of law nor of prudence that evidence furnished by extrajudicial confession cannot be relied upon unless corroborated by some other credible evidence. The courts have considered the evidence of extrajudicial confession a weak piece of evidence. ...*

*... It thus appears that extrajudicial confession appears to have been treated as a weak piece of evidence but there is no rule of law nor rule of prudence that it cannot be acted upon unless corroborated. If the evidence about extrajudicial confession comes from the mouth of witness/witnesses who appear to be unbiased, not even remotely inimical to the accused, and in respect of whom nothing is brought out which may tend to indicate that he may have a motive for attributing an untruthful statement to the accused, the words spoken to by the witness are clear, unambiguous and unmistakably convey that the accused is the perpetrator of the crime and nothing is omitted by the witness which may militate against it, then after subjecting the evidence of the witness to a rigorous test on the touchstone of credibility, if it passes the test, the extra judicial confession can be accepted and can be the basis of a conviction. In such a situation to go in search of corroboration itself tends to cast a shadow of doubt over the evidence. If the evidence of extra judicial confession is reliable, trustworthy and beyond reproach the same can be relied upon and a conviction can be founded thereon.*

*16. We find the evidence of PW 1 Nair and PW 9 Jagdish Singh speaking about the extrajudicial confession wholly trustworthy and reliable"*

297. Ld. ASG has further referred to the provisions contained under Section 35 of The Indian Evidence Act, 1872 which reads as under:-

*"35 Relevancy of entry in public record made in performance of duty-An entry in any public or other official book, register, or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record is kept, is itself a relevant fact."*

298. Ld. ASG submitted that entries in the case diary which is an official book, the official record would be relevant and can be relied upon. Similarly, statements recorded u/s 161 Cr.P.C. by Police Officer would also be relevant under Section 35 of the Evidence Act, since, the provisions of Section 162 Cr.P.C. would not apply to the proceedings before this Tribunal. Statements recorded u/s 161 Cr.P.C. would also be relevant u/s 35 and can be considered by this Hon'ble Tribunal. Even charge sheets submitted to the Court u/s 173 Cr.P.C. would be relevant u/s 35 of the Evidence Act. It was submitted that in **Khatris and Others (IV) v. State of Bihar and Others reported as (1981) 2 SCC 493** (supra) the Supreme Court has held while dealing with the investigation reports of one Shri L.V. Singh who was directed to investigate into the matter, has held that the reports of investigation are clearly relevant u/s 35 of the Indian Evidence Act, after putting section 35 of The Indian Evidence Act the Hon'ble Supreme Court observed as follows in para 9:

*"These reports are part of official record and they relate to the fact in issue as to how, and by whom the twenty-four under-trial prisoners were blinded and they are admittedly made by Sh. L.V. Singh, a public servant, in the discharge of his official duty and hence they are plainly and indubitably covered by Section 35. The language of section 35 is so clear that it is not necessary to refer to any decided cases on the interpretation of that section, but we may cite two decisions to illustrate the applicability of this section in the present case. The first is the decision of this Court in Kanwar Lal Gupta v. Amar Nath Chawla. There a question was whether reports made by officers of the CID (Special Branch) relating to public meetings covered by them at the time of the election were relevant under Sections 35 and this Court held that they were, on the ground that they were (SCC p.667) "made by public servants in discharge of their official duty and they were relevant under the first part of Section 35 of the Evidence Act, since they contained statements showing what were the public meetings held by the first respondent". This Court in fact followed an earlier decision of the Court in P.C.P. Reddiar v. S. Perumal. So also in Jagdat v. Shrepal, Wazirhasan, J. held that the result of an inquiry by a Kanungo under Section 202 of the Code of Criminal Procedure, 1898 embodied in the report is an entry in a public record stating a fact in issue and made by a public servant in his official duties and the report is therefore admissible in evidence under Section 35. We find that a similar view was taken by a Division bench of the Nagpur High Court in Chandulal v. Pushkar Raj where the Learned Judges held that reports made by Revenue Officers, though not regarded as having judicial authority, where they express opinions on the private rights of the parties are relevant under Section 35 as reports made by public officers in the discharge of their official duties, in so far as they supply information in formation of official proceedings and historical facts. The Calcutta High Court also held in Lionell Edwards Limited v. State of W.B., that official correspondence from the Forest Officer to his superior, the Conservator of Forests, carried on by the Forest Officer in*



*the discharge of his official duty would be admissible in evidence under section 35. There is therefore no doubt in our mind that the reports made by Sh. L.V. Singh setting forth the result of the investigation carried on by him and his associates are clearly relevant under Section 35 since they relate to a fact in issue and are made by a public servant in discharge of his official duty."*

299. Learned ASG has also referred to Section 114 (e) of the Evidence Act regarding the presumption that the official acts have been regularly performed. Learned ASG submits that this presumption will apply vis a vis recording of the statements of witnesses and the accused by the IO during the investigation of the case.

300. Learned Additional Solicitor General placed reliance on the case of **K.L. Shinde v. State of Mysore** 1976 (3) SCC 76 wherein *inter alia* held that the departmental proceedings do not stand on the same footing as criminal prosecutions in which a higher degree of proof is required. The Court further *inter alia* held that in courts of law hearsay evidence is not admissible except to the extent permitted by the Evidence Act. It was further *inter alia* held that while there is no bar against the reception of hearsay evidence by domestic tribunals, the extent to which such evidence may be received and used must depend on the facts and circumstances of the case and in consonance of the principles of natural justice.

301. Sh. Ashok Aggarwal has also extensively relied upon the judgment of **Jamaat-e-Islami Hind vs. Union of India** which is not being discussed herein for the sake of brevity as it has been discussed in detail in the beginning. Learned Counsel submits that the Union of India cannot resort to "as far as practicable" unless it shows the reason. Reliance has been placed upon **Magan Lal vs. M/s Jaiswal Industries, Neemach and Others:** (1989) 4 SCC 344. In this regard reference has also been placed upon **Dr. Pratap Singh and Anr. vs Director of Enforcement, Foreign Exchange Regulation Act and Others:**(1985) 3 SCC 72. Shri Ashok Aggarwal, Learned Counsel, submits that the Union of India has not brought any material on record to show as to how and why it was not practicable to apply the provisions of the Civil Procedure Code 1908 and Indian Evidence Act, 1872. In respect of the admissibility of hearsay evidence before the Tribunal learned counsel has relied upon **Jagannath Prasad Sharma vs State of UP: (1962) 1 SCR 151, Tarlochan Singh vs State of Punjab: 1973 SCC Online P&H 300 and Central bank of India vs Prakash Chand Jain:(1969) 1 SCR 735. In Central Bank of India** (supra), it was *inter alia* held that the findings recorded by the inquiry officer must be supported by legal evidence. It should consist of statement made in presence of workmen in charge. Shri Ashok Aggarwal has also cited **Khatris vs State of Bihar** (supra) and asserted that the statement of witnesses including those of the accused persons made under section 161 and 162 Cr.P.C. in the previous cases are not admissible in the proceedings before this tribunal. Shri Ashok Aggarwal, learned counsel has also argued that deposition by the recounter of his statement given by a witness under section 161 Cr.P.C is hearsay evidence. Ld. Counsel submits that reliance of the Central Govt on Khatris case is misplaced. In this regard reliance was placed upon **Kalyan Kumar Gogoi vs Ashutosh Agnihotri:** (2011) 2 SCC 532 wherein it was *inter alia* held as under:

*"35. The term 'hearsay' is used with reference to what is done or written as well as to what is spoken and in its legal sense, it denotes that kind of evidence which does not derive its value solely from the credit given to the witness himself, but which rests also, in part, on the veracity and competence of some other person. The word 'hearsay' is used in various senses. Sometimes it means whatever a person is heard to say. Sometimes it means whatever a person declares on information given by someone else and sometimes it is treated as nearly synonymous with irrelevant. The sayings and doings of third person are, as a rule, irrelevant, so that no proof of them can be admitted. Every act done or spoken which is relevant on any ground must be proved by someone who saw it with his own eyes and heard it with his own ears.*

*36. The argument that the rule of appreciation of hearsay evidence would not apply to determination of the question whether change of venue of polling station has materially affected the result of the election of the returned candidate, cannot be accepted for the simple reason that, this question has to be determined in a properly constituted election petition to be tried by a High Court in view of the provisions contained in Part VI of the Representation of the People Act, 1951 and [Section 87\(2\)](#) of the 1951 Act, which specifically provides that the provisions of the [Indian Evidence Act, 1872](#), shall subject to the provisions of the Act, be deemed to apply in all respects to the trial of an election petition. The learned counsel for the appellants could not point out any provision of the 1951 Act, which excludes the application of rule of appreciation of hearsay evidence to the determination of question posed for consideration of this Court in the instant appeal.*

*37. Here comes the rule of appreciation of hearsay evidence. Hearsay evidence is excluded on the ground that it is always desirable, in the interest of justice, to get the person, whose statement is relied upon, into court for his examination in the regular way, in order that many possible sources of inaccuracy and untrustworthiness can be brought to light and exposed, if they exist, by the test of cross-examination. The phrase "hearsay evidence" is not used in*

the Evidence Act because it is inaccurate and vague. It is a fundamental rule of evidence under the Indian Law that hearsay evidence is inadmissible. A statement, oral or written, made otherwise than by a witness in giving evidence and a statement contained or recorded in any book, document or record whatever, proof of which is not admitted on other grounds, are deemed to be irrelevant for the purpose of proving the truth of the matter stated. An assertion other than one made by a person while giving oral evidence in the proceedings is inadmissible as evidence of any fact asserted. That this species of evidence cannot be tested by cross-examination and that, in many cases, it supposes some better testimony which ought to be offered in a particular case, are not the sole grounds for its exclusion. Its tendency to protract legal investigations to an embarrassing and dangerous length, its intrinsic weakness, its incompetence to satisfy the mind of a Judge about the existence of a fact, and the fraud which may be practiced with impunity, under its cover, combine to support the rule that hearsay evidence is inadmissible.

38. The reasons why hearsay evidence is not received as relevant evidence are:

(a) the person giving such evidence does not feel any responsibility. The law requires all evidence to be given under personal responsibility, i.e., every witness must give his testimony, under such circumstance, as expose him to all the penalties of falsehood. If the person giving hearsay evidence is cornered, he has a line of escape by saying "I do not know, but so and so told me",

(b) truth is diluted and diminished with each repetition and

(c) if permitted, gives ample scope for playing fraud by saying "someone told me that.....". It would be attaching importance to false rumour flying from one foul lip to another. Thus statements of witnesses based on information received from others is inadmissible.

302. Reliance has also been placed upon **Bhugdomal Gangaram vs State of Gujrat**: (1984) 1 SCC 319 and **Jagdish Narayan vs State of UP**: (1996) 8 SCC 199 as well as **Khashaba Maruti Sholke v. State of Maharashtra**, (1973) 2 SCC 449 and **Ram Krishan vs State of UP**: (2005) 9 SCC 736, to say that the Union of India has not produced any direct evidence. It has been submitted that the statement given by the IO is not directly admissible in law. Learned Counsel further submitted that the recorder of the statement can only depose as to the recording and existence of such statement and not the contents thereof or to the truth of those contents. Reliance has been placed upon **H Umesh @ Umakantha Rao vs State of Karnataka**: 1990 SCC OnLine Kar 144. Shri Ashok Aggarwal, learned counsel has submitted that the statements recorded under Section 161 Cr.P.C. and other cases are not relevant under Section 6 of the Evidence Act. Reliance has been placed upon **Gantela Vijayvardhan Rao and anr vs. State of A.P.**: (1996) 6 SCC 241, wherein, it was *inter alia* held as under:-

"15. The principle of law embodied in Section 6 of the Evidence Act is usually known as the rule of *res gestae* recognised in English Law. The essence of the doctrine is that fact which, though not in issue, is so connected with the fact in issue "as to form part of the same transaction" becomes relevant by itself. This rule is, roughly speaking, an exception to the general rule that hearsay evidence is not admissible. The rationale in making certain statement or fact admissible under Section 6 of the Evidence Act is on account of the spontaneity and immediacy of such statement or fact in relation to the fact in issue. But it is necessary that such fact or statement must be part of the same transaction. In other words, such statement must have been made contemporaneous with the acts which constitute the offence or atleast immediately thereafter. But if there was an interval, however slight it may be, which was sufficient enough for fabrication then the statement is not part of *res gestae*. In **R. v. Lillyman**, (1896) 2 Q.B. 167, a statement made by a raped woman after the ravishment was held to be not part of the *res gestae* on account of some interval of time lapsing between the act of rape and making of the statement. Privy Council while considering the extent up to which this rule of *res gestae* can be allowed as an exemption to the inhibition against hearsay evidence, has observed in **Teper v. R.**, (1952) 2 All E.R. 447, thus :

"The rule that in a criminal trial hearsay evidence is admissible if it forms part of the *res gestae* is based on the propositions that the human utterance is both a fact and a means of communication and that human action may be so interwoven with words that the significance of the action cannot be understood without the correlative words and the dissociation of the words from the action would impede the discovery of the truth. It is essential that the words sought to be proved by hearsay should be, if not absolutely contemporaneous with the action or event, at least so clearly associated with it that they are part of the thing being done, and so an item or part of the real evidence and not merely a reported statement."

The correct legal position stated above needs no further elucidation."

303. Reliance has also been placed upon **Sukhar vs. State of UP.**: (1999) 9 SCC 507. Sh. Ashok Aggarwal, learned counsel has submitted that the statements recorded under Section 161 Cr.P.C. in other cases are not relevant before this Court under Section 11 of the Evidence Act. Reliance has been placed upon **Munna Lal vs. Kameshri Dat**: AIR 1929 Oudh 113, **Bela Rani vs. Mahabir Singh**: ILR (1912) 34 All 341. Learned counsel has also negated the argument raised by the learned ASG that the statements recorded under Section 161 Cr.P.C. in other cases are inadmissible before this Tribunal under Section 35 and Section 114 of the Evidence Act. Reliance has been placed upon **Standard Chartered Bank vs. Andhra Bank Financial Services Ltd.**: (2006) 6 SCC 94; **Sodhi Transport Co. vs. State of U.P.**: (1986) 2 SCC 486; **Pratap Singh vs. Shiv Ram**: (2020) 11 SCC 242. Sh. Ashok Aggarwal, has extensively relied upon the judgment of the Supreme Court in **Pratap Singh** (supra) to buttress his point already made regarding the inadmissibility of the evidence and the adherence to the principles of the Evidence Act in its full rigour. In respect of application of bar of Section 25 and 26 of the Evidence Act to the proceedings before this Tribunal, reliance has also been placed upon the **State of Maharashtra vs. Kamal Ahmed Vakil Ansari**: (2013) 12 SCC 17. This case was concerning the train blasts in Mumbai in the year 2006.

304. Sh. Kartik Venu, learned Counsel for the National Women Front in addition to his submissions has relied upon **Jamaat-e-Islami Hind vs. Union of India**: (1995) 1 SCC 428. The discussion on **Jamaat-e-Islami Hind vs. Union of India** has already been made in the earlier portion of the judgment and is thus not being repeated herein for the sake of brevity. Sh. Kartik Venu has further submitted that the burden on the banned associations was very onerous. It was submitted that proving a negative fact in issue does not exist is far more cumbersome than proving it positive. Learned counsel has relied upon **Bharat Barrel Drum & Manufacturing Company vs. Amin Chand Payrelal**: (1999) 3 SCC 35. Sh. Kartik Venu, learned counsel has further submitted that the standard of preponderance of probability can be met not merely through direct evidence but also through attendant circumstances. Reliance has been placed upon **Ms. Narayana Menon vs. State of Kerala**: (2006) 6 SCC 39 in which it was *inter alia* held that the standard of proof evidently is pre-ponderance of probabilities. Inference of pre-ponderance of probabilities can be drawn not only from the materials on records but also by reference to the circumstances upon which he relies. Learned counsel has further submitted that classification of evidence as hearsay is contingent on the nature of facts sought to be proved. In regard to this submission, learned counsel has relied upon **Subramaniam vs. Public Prosecutor**: 1956 1 WLR 965, wherein it was *inter alia* held as under:

“.....Evidence of a statement made to a witness by a person who is not himself called as a witness may or may not be hearsay. It is hearsay and inadmissible when the object of the evidence is to establish the truth of what is contained in the statement. It is not hearsay and is admissible when it is proposed to establish by the evidence, not the truth of the statement, but the fact that it was made. The fact that the statement was made, quite apart from its truth, is frequently relevant in considering the mental state and conduct thereafter of the witness or of some other person in whose presence the statement was made.”

305. In this regard, reliance has also been placed on **Kundan Singh vs. State**: 2015 SCC Online Del 13647; **Tehsildar Singh vs. State of Uttar Pradesh**: (1962) [1959 Supp(2) SCR 875]; **Ram Kishan vs. State of Uttar Pradesh**: (2005) 9 SCC 736. Learned counsel has also relied upon the **State of Rajasthan vs. Raja Ram**: 2003 8 SCC 180 to buttress his point that even in an inquiry proceeding, the statement made by the accused while in custody loses all its probability value. It is pertinent to mention here that in this case, the Court was considering the confession made by an accused during the investigation of the case.

306. Sh. Mobin Akhtar, learned counsel submitted that the Union of India has led the evidence much beyond the background not filed by it. Learned counsel has submitted that any evidence beyond pleading is not permissible in law. In this regard, reliance has been placed upon **Union of India vs. Ibrahim Uddin & Anr**: (2012) 8 SCC 148, wherein it was *inter alia* held that relief not found in the pleadings cannot be granted. Learned counsel has submitted that it was further *inter alia* held that a decision of a case cannot be based on the grounds outside the pleadings of the parties. Learned counsel submitted that no evidence is permissible to be taken on record in the absence of the pleadings in that respect and no party can be permitted to travel beyond its pleadings and that all necessary material and facts should be pleaded by the party in support of the case set up by it. Learned counsel submits that since the evidence was not in line of the pleadings, the said evidence cannot be looked into by this Tribunal.

307. Sh. Mobin Akhtar, learned counsel has submitted that predominantly the material produced by the Union of India during the evidence does even not fall in the category of the definition of evidence. Reliance has been placed upon **R.C. Kumar & Others vs. State of Andhra Pradesh and Anr**: Crimes XII 1990 Volume 3 page 678. In this regard reference has also been placed upon **Sheo Raj vs. State**: AIR 1964 Allahabad 290. Learned counsel has submitted that in most of the cases, the material which has been produced by this Tribunal by the Union of India is collected during the inquiry. Learned counsel submits that in **Hardeep Singh vs. State of Punjab & Ors** (2014) 3 SCC 92, it was *inter alia* held that the state of inquiry does not contemplate any evidence in its strict legal sense nor the legislature could have contemplated this inasmuch as the stage for evidence has yet not arrived. Learned counsel has submitted that in fact the materials available in the chargesheet of the case dairy do not constitute evidence. Reliance has been placed upon **Lok Ram vs. Nihal Singh and Anr.**: AIR: 2006 SC 1892. In respect of the judgments cited by the Union of India regarding the conviction recorded by the learned Trial Courts, Sh. Mobin Akhtar submitted that the

judgment of a criminal Court is admissible to prove as to who were the parties to the dispute and what order had been passed in that criminal proceedings but that the facts stated therein or the statement of the evidence of the witnesses examined in the criminal case or the findings given by the Criminal Court are not admissible in evidence. Reliance has been placed upon *Ramadhar Chaudhary And Ors. vs. Janki Chaudhary*: AIR 1956 Patna 49. Reliance has also been placed upon *Seth RamdayalJat vs. Laxmi Prasad*: (2009) 2 SCC 549; *Vishnu Dutt Sharma vs. DayaSapra*: 13 SCC 729, *Syed Askari Hadi Ali Augustine Imam and Anr. v. State (Delhi Admn.) and Anr* (2009) 5 SCC 528. Sh. Mobin Akhtar has also relied upon the observations made by the Hon'ble Supreme Court in *Jamaat-e-Islami Hind vs. Union of India*: (1995) 1 SCC 428. Sh. Mobin Akhtar has submitted in fact the observations made by the Hon'ble Supreme Court in *Jamaat-e-Islami Hind vs. Union of India*: (1995) 1 SCC 428 were in peculiar facts and circumstances. Learned counsel has submitted that the scope, as laid down by the Supreme Court in that case was only in respect of the confidential documents being produced by the Union of India. Learned counsel has submitted that these findings cannot be taken as dictum to the procedure being adopted by the Constitution.

308. The arguments in this regard raised by the banned organizations can be summarized as that though the preponderance of probability is required in the present case but in view of the applicability of the Indian Evidence Act as provided in UAPA itself, the bar as provided under Section 24, 25 and 26 of The Indian Evidence Act and Section 162 Cr.P.C. cannot be washed away. Sh. Ashok Aggarwal, learned counsel for PFI assisted by Ms.Sridevi Panikkar, advocate and other learned counsels for the banned organizations have also argued vehemently that the Union of India has placed on record the materials which are totally inadmissible. Mr.Mobin Akhtar has in fact gone to the extent to suggest that the materials which have been produced before the Tribunal are not even evidence.

#### **FINDINGS ON THE ISSUE OF ADMISSIBILITY OF EVIDENCE AND THE OBJECTIONS TAKEN BY THE BANNED ORGANIZATIONS**

309. The consideration of the rival submissions of the parties makes this Tribunal to consider the concept of best possible evidence and the procedure to be adopted by this Tribunal. In this regard, it may be reiterated that this is only an inquiry which is to be completed within a period of six months. It is also vital to consider that this is a matter which deals with sovereignty and integrity of the country. It is also to be considered that the Union of India has come with a notification about an association which in its opinion is indulging into unlawful activities as defined under section 2 (1) (p) of the UAPA Act, 1976. Thus, whether this tribunal limits itself or restrains itself to the hyper technicalities or rises above to see overall the material produced before it, in order to ascertain that whether there was sufficient material to issue the notification and further whether the Union of India has been able to produce the material which is sufficient to certify the same.

310. The party who asserts a proposition is required to produce the best possible evidence. If a party does not produce best possible evidence, an inference is required to be drawn against that party. The question thus posed before this Tribunal is what other evidence Union of India would have lead, except for examining of these witnesses and production of such records, to prove that either the PFI or its members or the association itself was indulging in such activities. The cross-examination on behalf of the organizations were predominantly on the point that these statements were taken under threat and coercion, the legal aid was not provided to such witnesses or the accused. The proceedings were not video graphed. Certain suggestions were also given that such statements were never made. It is a settled proposition that mere suggestions have no evidentiary value. It is also pertinent to mention here that a bare reading of Section 162 Cr.P.C. makes it clear that the restriction of use in evidence of any statement recorded under Section 162 Cr.P.C. is applicable only to an inquiry or trial in respect of any offence under any investigation at the time when such statement was made. The law as enunciated and discussed above also makes it clear that reading of Section 25 and 26 of the Indian Evidence Act, only applies to confessions and will not be applicable to a statement which is non-confessional in nature. The statements made by the arrested accused persons that they are members of PFI is neither admission in terms of the offence or at any rate substantially all the facts which constitute the offence. The contention of learned ASG has to be accepted that in most cases, the statement of the accused is being relied for the purpose of showing that the accused has admitted that he is a member or office bearer of PFI or any other connected association and such statement is not a confession, even in the trial of the offence during investigation of which the statement was made. Learned ASG has rightly submitted that such statements therefore cannot be barred either under section 25 or 26 of the Evidence Act.

311. In the case of *Vinay D. Nagar v. State of Rajasthan* ,reported in (2008) 5 SCC 597 the Supreme Court regarding section 162 of the CrPC observed as under:

*“14. On account of Section 162 CrPC, a statement made by any person to a police officer in the course of investigation under Chapter XII, if reduced into writing, will not be signed by the person making it, nor such statement recorded or any part thereof be used for any purpose at any inquiry or trial in respect of any offence under investigation at the time when such statement was made. Such statement may be used by an accused and with the permission of the court by the prosecution to contradict the witness whose statement was recorded by the police in the manner provided under Section 145 of the Evidence Act and can also be used for re-examination of such witness for the purpose only of explaining any matter referred to in his cross-examination. **Bar of Section 162 CrPC of proving the statement***

recorded by the police officer of any person during investigation however shall not apply to any statement falling within the provision of Clause (1) of Section 32 of the Evidence Act, nor shall it affect Section 27 of the Evidence Act. Bar of Section 162 CrPC is in regard to the admissibility of the statement recorded of a person by the police officer under Section 161 CrPC and by virtue of Section 162 CrPC would be applicable only where such statement is sought to be used at any inquiry or trial in respect of any offence under investigation at the time when such statement was made.

15. In *Khatiri (IV) v. State of Bihar*<sup>3</sup> this Court has held that Section 162 CrPC bars the use of any statement made before the police officer in the course of an investigation under Chapter XII, whether recorded in the police diary or otherwise. However, by the express terms of Section 162, this bar is applicable only where such statement is sought to be used “at any inquiry or trial” in respect of any offence under investigation at the time when such statement was made. If the statement made before a police officer in the course of an investigation under Chapter XII is sought to be used in any proceeding, inquiry or trial in respect of an offence other than which was under investigation at the time when such statement was made, the bar of Section 162 will not be attracted.

16. When the statement of Kalu was recorded by the police officers under Section 161 CrPC during the investigation of abduction case of a boy, Kalu was alive and thus that statement could be used in the subsequent investigation that was being made with respect to the alleged murder of Kalu.”

312. The Tribunal has discussed in detail all the judgments being cited by the Union of India and the learned counsel for the banned organisations. The propositions as set up by both the parties cannot be quarrelled. The moot question is that whether these judgments would be applicable in the facts and circumstances of the case. In this regard, it is also necessary to see the law of precedent. The law of precedent provides that a judgment has to be applied on the facts of a particular case. The proceedings before this Tribunal are special and peculiar in nature. All the judgments cited by the learned counsel for the banned organisations stands good regarding the bar of Section 25 and Section 26 of the Evidence Act in the criminal proceedings. However, the facts of the present case are totally different in nature. The judgments have to be read and understood keeping in view the object of the statute and the purpose of the adjudication. This Tribunal is fully conscious of the fact that the findings cannot be returned merely on the *ipse dixit* or at the assertion of the Union of India. The basic principles of CPC, Indian Evidence Act and the principle of natural justice have to be followed.

313. It is reiterated that there is no quarrel with the propositions propounded in the judgments cited by the Ld. Counsels for the banned organizations. However, it is a settled proposition that a judgment is not to be read as a statute and has to be read in the context in which the question arose for consideration. The reliance can be placed upon *PS Sathappan V/s Andhra Bank Ltd. (2004) 11 SCC 672*. It is also a settled proposition that observation made during the course of reasoning in a judgment should not be read divorced from the context in which it is made. Reliance can also be placed upon the case of *State of Gujrat vs. Akhil Gujrat Pravasi V.S. Mahamandal AIR 2004 SC 3849*. It is also well settled that a decision is not a authority for the proposition which did not fall for consideration before the court. The judgements cited by the Ld. Counsels for the Banned organizations will have to be read in the context in which they were rendered i.e. the judgment on the applicability of section 25 of Indian Evidence Act and Section 162 Cr.P.C. in the context of criminal trials. Thus, the judgments cited by learned counsel for the banned organization are respectfully distinguished on the facts and circumstances of the case.

314. In the cases of *Khatiri* and *Ors* (supra) and *Vinay D. Nagar* (supra), the Supreme Court has held that the bar under sections 25 and 26 of the Evidence Act and section 162 of the CrPC are attracted only for the purposes of the trial in which the statements, of the accused or of the witness, have been recorded. The said bar does not operate where such records are sought to be produced and used in evidence in a civil proceeding. It was held that the provisions of the CrPC are applicable in respect of investigation, enquiry and trial of offence under the Indian Penal Code or any other law and as such the same will not apply for proceedings other than the investigation, enquiry or trial of the offence. It was held that statement made before a police officer in the course of investigation under the CrPC will not be hit by section 162 of the CrPC if the same was being sought to be used in any proceedings other than an enquiry or trial in respect of the said offence. It was held that the protection granted under section 162 of the CrPC was in favour of the person accused against the user of the statements of witnesses made before the police during the investigation at the trial. Such protection was not necessary in any proceeding other than inquiry or trial in respect of the offence under investigation. It had no application in the civil proceeding. Even in respect of production of case diaries (CD), the bar under section 172 of the CrPC against production of the CD was intended to operate only in an enquiry or trial for the offence concerned. Further the said bar was limited because even in the trial of the offence, the bar under section 172 of the CrPC did not operate if the CD is used by the police officer for refreshing his memory or by the Court to contradict the police officer. It was held that the bar under section 172 CrPC would thus have no application where the CD is sought to be produced and used in evidence in a civil proceeding and particularly where the party calling for the case diary is neither an accused nor his agent in respect of the offence to which the case diary relates.



315. In view of the law as laid down in the cases of Khatri and Ors (supra) and Vinay D. Nagar (supra), the objections raised by the Ld. Counsels for the organizations / respondents regarding disclosure statements being hit by section 25 and 26 of the Indian Evidence Act and statements of witnesses recorded under section 161 of the CrPC being barred under section 162 of the CrPC have no merit and therefore, the objections taken by the Ld. Counsels for the banned organizations regarding admissibility of evidence are rejected.

#### **CLAIM OF PRIVILEGE BY THE CENTRAL GOVERNMENT**

316. Section 3 (2) of the UAPA provides that every notification issued under section 3 (1) declaring an association as unlawful shall specify the grounds on which the notification has been issued and such other particulars as the Central Govt may consider necessary. However the proviso to section 3(2) lays down that nothing in section 3 (2) shall require the Central Govt to disclose any fact which it considers to be against the public interest to disclose. Thus the proviso to section 3 (2) entitles the Central Govt to withhold disclosure of any fact on which the notification is based if the Central Govt considers disclosure of such facts to be against the public interest. Similarly Rule 5 of the UAPA Rules provides that the Reference made to the Tribunal under section 4 of the UAPA shall be accompanied by a copy of the notification issued under section 3 (1) and all facts on which the grounds specified in the said notification are based. The proviso to Rule 5 however provides that nothing in the said Rule shall require the Central Govt to disclose any fact to the Tribunal which that Govt considers against the public interest to disclose.

317. In order to ascertain that whether there was sufficient material to issue the notification or further the Union of India has been able to produce the material which is sufficient to certify the same. The Union of India while examining PW-98 Mr. Dharmendra Kumar from MHA has placed on record certain material claiming privilege on the ground that the disclosure of the same to the opposite party would not be in public interest. The banned organizations have opposed it predominantly on two grounds firstly that no such claim of privilege was made at the time of issuance of the notification or while making of the reference to the Tribunal. Learned counsels for the banned organizations have stated that in fact this material has been manufactured and fabricated and is merely an afterthought. Learned counsel submits that this tribunal adhering to the principles of natural justice should not look into such material.

318. Sh.Tushar Mehta, learned Solicitor General has argued vehemently that the UAPA and the Rules framed thereunder provide for a mechanism to claim privilege and withhold certain facts/documents to seek non-disclosure of the same. Learned Solicitor General referred to the decision of Hon'ble Supreme Court in ***Jamaat-E-Islami Hind v. Union of India***, (1995) 1 SCC 428 wherein it has been held as under:

*"...the proviso to sub-section (2) of Section 3 of the Act itself permits the Central Government to withhold the disclosure of facts which it considers to be against the public interest to disclose. Similarly, Rule 3(2) and the proviso to Rule 5 of the Unlawful Activities (Prevention) Rules, 1968 also permit non-disclosure of confidential documents and information which the Government considers against the public interest to disclose." [Para 19]*

***"It is obvious that the unlawful activities of an association may quite often be clandestine in nature and, therefore, the source of evidence of the unlawful activities may require continued confidentiality in public interest. In such a situation, disclosure of the source of such information, and, may be, also full particulars thereof, is likely to be against the public interest. The scheme of the Act and the procedure for inquiry indicated by the Rules framed thereunder provide for maintenance of confidentiality, whenever required in public interest."*** [Para 21]

***"...in such cases where the Tribunal is satisfied that non-disclosure of such information to the association or its office-bearers is in public interest, it may permit its non-disclosure to the association or its office-bearers, but in order to perform its task of adjudication as required by the Act, the Tribunal can look into the same for the purpose of assessing the credibility of the information and satisfying itself that it can safely act on the same. In such a situation, the Tribunal can devise a suitable procedure whereby it can itself examine and test the credibility of such material before it decides to accept the same for determining the existence of sufficient cause for declaring the association to be unlawful. The materials need not be confined only to legal evidence in the strict sense."*** [Para 21]

*"Such a modified procedure while ensuring confidentiality of such information and its source, in public interest, also enables the adjudicating authority to test the credibility of the confidential information for the purpose of deciding whether it has to be preferred to the conflicting evidence of the other side. This modified procedure satisfies the minimum requirements of natural justice and also retains the basic element of an adjudicatory process which involves objective determination of the factual basis of the action taken." [Para 24]*

*"...The Tribunal should form its opinion on all the points in controversy after assessing for itself the credibility of the material relating to it, even though it may not be disclosed to the association, if the public interest so requires." [Para 25]*



"...the claim of privilege on the ground of public interest by the Central Government would be permissible and the Tribunal is empowered to devise a procedure by which it can satisfy itself of the credibility of the material without disclosing the same to the association, when public interest so requires. The requirements of natural justice can be suitably modified by the Tribunal to examine the material itself in the manner it considers appropriate, to assess its credibility without disclosing the same to the association. This modified procedure would satisfy the minimum requirement of natural justice and judicial scrutiny. The decision would then be that of the Tribunal itself." [Para 26]

319. In **People Union for Civil Liberties vs. Union of India**, (2004) 2 SCC 476: 2004 SCC OnLine SC 41, it was inter alia held as under:

*"69. The legislative policy behind the aforementioned provisions is no longer res integra. The State must have the prerogative of preventing evidence being given on matters that would be contrary to public interest.*

*70. For determining a question when a claim of privilege is made, the Court is required to pose the following questions:*

*(1) whether the document in respect of which privilege is claimed, is really a document (unpublished) relating to any affairs of State; and*

*(2) whether disclosure of the contents of the document would be against public interest?*

*71. When any claim of privilege is made by the State in respect of any document, the question whether the document belongs to the privileged class has first to be decided by the court. The court cannot hold an enquiry into the possible injury to public interest which may result from the disclosure of the document in question. The claim of immunity and privilege has to be based on public interest.*

*72. The section does not say who is to decide the preliminary question viz. whether the document is one that relates to any affairs of State, or how it is to be decided, but the clue in respect thereof can be found in Section 162. Under Section 162 a person summoned to produce a document is bound to*

*"bring it to the court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the court".*

*It further says that:*

*"The court, if it seems fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility."*

*73. In order to claim immunity from disclosure of unpublished State documents, the documents must relate to affairs of the State and disclosure thereof must be against interest of the State or public interest."*

320. Learned SG has also relied upon the judgement in **Deendar Anjuman v. Government of India**, 2001 SCC OnLine AP 663 : (2001) 4 ALT 674 : 2002 Cri LJ 710: (2001) 2 ALD (Cri) 373, wherein the Hon'ble High Court of Andhra Pradesh after applying the test laid down in **Jamaat-E-Islami Hind** (supra) upheld the ban imposed and further held that the entire material available on record itself need not be published or made available to the aggrieved person but what is required is disclosure of reasons and the grounds.

*"19. The expression "for reasons to be stated in writing" did not necessarily mean that the entire material available on record itself is to be published or made available to the aggrieved person. What is required is disclosure of reasons. The grounds must be disclosed. The notification issued under sub-section (1) of Section 3 alone is required to be referred to the Tribunal "for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful..."*

*20. It is, therefore, evident that disclosure of all the facts and material available on record subject to the claim of any privilege in this regard Or the Central Government is only after the reference of the notification by the under sub-section (1) of Section 3 or there is to the Tribunal for the purpose of adjudication whether or not there is sufficient cause for declaring the association unlawful. The material available on record may have to be revealed to the association or its members. In a case Wherever any privilege is claimed, the Tribunal has to examine the material itself in the manner it considers appropriate, to assess its credibility without disclosing the same to the association. Therefore, there is no requirement to disclose the material itself and publish the same in the notification or provide to the association along with the notification issued in exercise of the power under proviso to sub-section (3) of Section 3 declaring the association to be unlawful with immediate effect. The requirement is disclosure of additional reasons and grounds and not the material. The notification issued in exercise of the power under proviso to sub-sec. (3) of Section 3 cannot be set aside on the ground that the material relied upon for stating the reasons is not communicated to the*

*association concerned declaring it to be an unlawful association with immediate effect. Such notification would become vulnerable only when the reasons are not notified: The record should contain the reasons in writing and the same is required to be revealed and published in the notification or communicated to the association concerned. Such reasons are required to be distinct and different and cannot be the same for imposing ban under Section 3 of the Act. The reasons are required to be communicated but not the entire material. Disclosure of the material is only after reference of the notification issued under Section 3 of the Act to the Tribunal."*

Learned SG has further relied upon the judgement in **Mohd. Jafar o. Union of India**, 1994 Supp (2) SCC 1, whereby, it has been held as under:

*"8. An analysis of the aforesaid provisions shows that for the purpose of declaring an association unlawful, the Central Government has to have material on the basis of which it forms its opinion that the association is or has become unlawful. The declaration is to be made by a notification. Such a notification has to specify the grounds on which the declaration is made and also such other particulars as the Central Government may consider necessary. The proviso to sub-section (2) of Section 3 only enacts the usual privilege clause which entitles The Central Government not to disclose such fact as it considers to be against the public interest to disclose.*

*12. In Black's Law Dictionary (5th Edn.) as "To express the particulars of a thing in writing or in words; to set down or set forth in detail; to aver, allege, or declare. To set down in gross; to mention in general terms, or by way of reference; to refer". "To state" therefore, has a distinct connotation of informing the party for whom the statement is meant. No one makes a statement to himself. Hence, the Act requires-that either it has to be stated in the notification or in a communication accompanying the notification or simultaneously issued with the notification or addressed to the affected association. Reasons which are "recorded" in file are not reasons which are stated for the benefit of the aggrieved party. The intention of the legislature is that the aggrieved party must know the reasons why the grave step of banning it is taken without giving it an opportunity to be heard. If the reasons are non-existent or irrelevant, the association has a right to challenge the same by showing cause against it. The fundamental right of the citizens and the associations cannot be taken away even temporarily for reasons which are not known to the individual or the association. The counter filed by the Government also states what Shri Tulsi has argued before us, viz., "there are sufficient grounds and materials in the possession of the Government and some of the reasons have been mentioned in the notification itself". It is stated that the reasons exist in the Government file. Some of these reasons, according to the counter, have been stated in the notification as well. It is further submitted that all facts and materials have been duly furnished to JEIH. They were furnished with the statements against them and they have filed their counter-affidavit before the Tribunal. The Tribunal, according to the learned counsel, will decide the matter, in due course."*

321. Learned SG has further submitted that in addition to the above, reference may also made to the decision of the prior Tribunals constituted under UAPA.

322. Hon'ble Mr. Justice Suresh Kait, in his report dated 30<sup>th</sup> July, 2014 in **Union of India v. Students Islamic Movements of India**, *inter alia* held as under:

*"179. Even though the aforesaid Rules empower the Government to claim the privilege of confidentiality of a document in public interest, however, any such claim of confidentiality or privilege by the Central Government cannot be accepted on its face value, which would be to the detrimental to the contesting respondents. Every such claim has to be examined, as held in S.P. Gupta's case, on the test of character of the document and if on objective satisfaction it is concluded that the document is of such a character that its disclosure will injure public interest, the contents thereof cannot be permitted to be disclosed to the other side. Thus, the foundation of immunity from non-disclosure stems from the character of the document which is identified on an act of balancing public interest against the interest of the individual, an office bearer or the association which has been banned. However, if the document fails the test of character as being confidential or if it emerges that its disclosure to the other side does not result in injury to 'public interest', certainly its disclosure cannot be denied to the contesting respondents.*

*180. To satisfy myself 'objectively' on the issue of 'public interest', claimed by the Central Government while claiming privilege in respect of certain documents, the Joint Secretary (Home) of the Central Government, who is an officer of a very senior rank in the government, was examined in camera in respect of each of the documents submitted in the sealed envelopes in the five States as well as by the Central Government. The said witness took me through all the documents explaining in detail the source and character of the documents and how its disclosure to the respondents would injure public interest and how the disclosure of these documents to the other side would jeopardize not only the interest and safety of certain individuals but would also expose the affairs of the State which cannot be*

*permitted to be brought in public domain. I have objectively assessed each of the documents submitted in the sealed envelopes and also carefully considered the contents of the documents, the statement and reasoning explained by the Joint Secretary (Home) during her examination in camera and I am convinced that the documents submitted by the witnesses in sealed envelopes are sensitive and of such a character that their disclosure will injure public interest and therefore, the same cannot be disclosed to the respondents.*

*181. Since a senior office of the Central Government has been examined in-camera on the contents of each of the documents submitted in sealed envelopes, the requirements of Section 123 of the Indian Evidence Act, 1872 also get substantially complied with even though the said section is not applicable stricto sensu to these proceedings. Accordingly, the contention raised by the respondents on the issue of claim of privilege by the Central Government is rejected.”*

323. Hon’ble Ms. Justice Mukta Gupta, in her report dated 20<sup>th</sup> July, 2019 in ***Union of India v. Students Islamic Movements of India***, *inter alia* held as under:

*“8.7 Further, the rigours as noted in S.P. Gupta (supra) for claiming privilege have to be read in context of the provisions of UAPA and the Rules framed thereunder which provide that documents, disclosure whereof may not be in the public interest be not disclosed. The Rule as noted above starts with a non-obstante clause and thus an inbuilt mechanism has been provided under the UAPA and the Rules framed thereunder and the Tribunal is mandated to grant privilege forbidding disclosure where the claim of the Government is that disclosure would be against public interest and on perusal the Tribunal also finds that public interest outweighs the interest of the association/members/office bearers.*

*8.8 In other words, the claim of confidentiality has to satisfy on the test of character of the document and if on an objective satisfaction it is concluded that the document is of such a character that its disclosure would injure public interest, the contents thereof cannot be permitted to be disclosed to the other side. Thus, the foundation of immunity from non-disclosure stems from the character of the document and an act of balancing public interest against the interest of the individual, the officer bearer or the association which has been banned, has to be carried out by the Tribunal.*

*8.09 Further the statement of objects and reasons of the UAPA itself underlines the purpose of the enactment being to provide for the more effective prevention of certain unlawful activities of individuals and associations and for matters connected therein. The statute empowers the Parliament to impose by a due process of law reasonable restrictions in the interest of sovereignty and integrity of India on the right to form association and incidentally a restriction on the freedom of speech and expression, to assemble peacefully and with arms. UAPA being a special statute, the procedure provided therein necessarily prevails on the general provisions of law. Further Section 48 of the UAPA itself provides that the provisions of the UAPA and the Rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of an enactment other than this Act giving a clear over-riding position. Thus contention of Mr. Ashok Aggarwal, Advocate that the claim of privilege before this Tribunal can be only in terms of Section 123 of the Indian Evidence Act and as per the mandate of the Constitution Bench in S.P. Gupta (supra) deserves to be rejected.*

*8.10 In the present case, as per the procedure eleven witnesses in their affidavits including PW-50 have claimed privilege of documents and submitted documents in sealed covers. In their affidavits, they have stated that the documents submitted to the Tribunal in the sealed cover are privileged and confidential in nature and the same cannot be made available to the banned association or to any third party under the provisions of UAPA as the Government considers it against the public interest to disclose.*

*8.11 A total of 11 sealed covers were handed over by the various witnesses of the Government. Before proceeding to deal with the material in the sealed cover this Tribunal has opened and perused the documents and material placed in sealed covers and re-sealed the same with the seal of the Tribunal while preparing the report.*

*8.12 The nature of material placed in the sealed cover by the ten witnesses is in the form of intelligence reports, secret informations collected from time to time by the investigating and intelligence agencies, communications between the intelligence agencies, informations revealed on investigation and interrogation of the accused which may lead to further recoveries, discoveries of facts as also unearth conspiracies, the disclosure whereof would be clearly detrimental to the larger public interest and the security of the State. One of the reports also note about a one-month campaign organized by activists of SIMI under the name and banner of an umbrella organization and that the activists of SIMI and some of their members and sympathizers are filing RTI applications in the various proceedings to help the*

*accused or members in the trials for committing various offences. The sealed cover placed on record by Shri S.C.L.Das, Joint Secretary, Ministry of Home Affairs, Government of India who appeared as PW50 contains the note put up to the Cabinet Committee on Security along with documents supporting the note and grounds on which the notification was issued besides intelligence inputs and correspondence in relation thereto. Hence, this Tribunal concludes that the claim of privilege of the documents by the witnesses is in accordance with law and documents submitted in sealed cover are not required to be disclosed in the public interest."*

324. Learned SG has submitted that it is necessary for this Tribunal to peruse/ analyze the sensitive documents and their disclosure in public domain as the same may invite harm to certain people. Learned SG has further submitted that the test for granting privilege is two-fold:

(1) *whether the document relates to affairs of State; and*

(2) *Whether its disclosure would in the particular case before the court be injurious to public interest.*

325. Learned SG has placed reliance upon **S.P. Gupta v. Union of India, 1981 Supp SCC 87**. Learned SG has submitted in this case it was inter alia held that the court in reaching its decision on these two questions has to balance two competing aspects of public interest, because the document being one relating to affairs of State, its disclosure would cause some injury to the interest of the State or the proper functioning of the public service.

### **FINDING ON THE ISSUE OF CLAIM OF PRIVILEGE**

326. The banned organizations had filed IA No.26/2023 seeking disallowance of the claim of privilege made by the Central Govt. The Central Govt along with the reply to this IA filed an affidavit of Sh. Ajay Kumar Bhalla, Secretary in the Govt of India, Ministry of Home Affairs wherein Sh. Ajay Kumar Bhalla specifically deposed that these documents have been carefully perused and considered by the Central Govt and the Central Govt is of the firm view that the same cannot be disclosed in public interest. Sh. Ajay Kumar Bhalla further deposed that this privilege is claimed not only for the information collected, gathered or processed, but also further for the manner and method of collecting such information. It was also deposed that considering the sensitive nature of the said document, the secrecy of the said documents is required to be maintained in the interest of maintenance of security and public order in the State. This affidavit was in addition to the affidavit filed by PW98 Dharmender Kumar which is Ex.PW98/A1.

327. This Tribunal following the established dictum has examined the records produced before it and is of the firm view that they pertain to the affairs of the State. The records contain cabinet notes, papers, documents for the purposes of preparing submissions to the cabinet, notes and minutes made by the senior officers, information expressed and gist of the official decisions. The documents also contain inputs received from highly sensitive organizations entrusted with the delicate job of gathering, collecting and analyzing intelligence necessary to maintain the unity, integrity and sovereignty of the country. The tribunal is of the firm opinion that the non-disclosure of the same is in the public interest. This tribunal is also of the firm view that in such matters secrecy is the essence of such organizations. Any exposure may damage such organizations and officers working in it. This may also dry up the sources that provide essential and sensitive information needed to protect the public interest. The tribunal guided by this consideration upholds the claim of privilege as has been claimed by the Union of India and argued very ably by the learned SG.

328. This Tribunal has minutely gone through the documents placed by the Central Government in the sealed cover. The documents placed on record by the Union of India reveal the clandestine operations being taken up by these banned organizations, which are certainly detrimental to the sovereignty and integrity of the country. The material produced also demonstrates linkage between the PFI and its associates, affiliates or fronts which have been banned by the Central Government vide its notification No.S.O.4559 dated 28.09.2022. The argument of learned counsels that these documents have been manufactured after the notification is totally unfounded. Some of the documents being placed before this Tribunal are even a decade old. The documents produced reveal the preparation and various activities being undertaken by such associations. It is in the public interest not to discuss any further the effect of such materials being in the public interest.

329. It is pertinent to mention here that while analyzing the confidential documents placed by the Central Government, this Tribunal has examined and conducted proceedings in-Camera. Sh. Dharmender Kumar, Deputy Secretary, Ministry of Home Affairs (MHA) was called and was asked to explain all the documents including the source and the character of the documents. Sh. Dharmender Kumar was also directed to explain how the disclosure of these documents would injure the public interest and safety of certain individuals. The documents so produced were objectively assessed and submitted in a sealed envelope.

330. Thus, in view of the discussion made hereinabove and taking into account the plethora of judgments cited by learned SG, this Tribunal is of firm view that it is a fit case where the documents produced concerned to the affairs of State and non-disclosure of it would be in public interest. Thus, the prayer of the Union of India for claim of privilege is allowed.

### **ANALYSIS / APPRAISAL OF THE EVIDENCE LED BY THE UNION OF INDIA AND THE BANNED ORGANISATIONS**

331. The material evidence led by the Central Govt has already been referred to in the section dealing with summary of evidence. Evidence has been led in respect of several cases and FIRs of different investigation agencies to demonstrate that the Central Govt had sufficient cause to declare the PFI and the other associations as unlawful association. Out of the same the following cases require special mention: -

**(i) FIR No.4/2021 Police Station ATS Gomti Nagar, under sections 120B, 121A of the IPC and Sections 13, 16,18, 20 of the UAPA and Sections 3,4,5 of The Explosive Substances Act, 1908 and Sections 3, 25 and 35 of the Arms Act 1959 –**

(a) In this case two accused persons Ansaad Badruddin and Feroz were apprehended by the UP ATS on the basis of secret information leading to recovery of 16 pieces of high explosives, devices with detonators, red and blue coloured wire, one pistol .32 bore, 6 live cartridges, cash, two mobile phones, PAN card, voter cards, ATM cards, driving licence of Kerala State, gelatin rods, DP wires, battery, five pages of diary with words written in Malayalam language, page of diary with names of members of their association, and some pen drives. As per the investigation, the code words were instructions on use of explosives for attacking Ram Mandir. Ansaad Badruddin was being paid Rs.10,000/- per month by the PFI through banking channels which was established from the bank account statements of PFI and Ansaad Badruddin. Both the accused persons in their disclosure statements admitted that they were members of PFI and were conspiring to commit the alleged acts. PW-31 produced certified copy of Canara Bank Account No.2495101065150 of Anshad s/o Badharudeen maintained Pandalam branch for the period 10.06.2015 to 15.01.2023 vide **Ex.PW31/A** which reflected such payments. **Ex.PW14/D** (colly) contains the statements of Ansaad Badruddin and Feroz. Ansaad Badruddin disclosed that he was active member of PFI since 2010 and was given work of expansion of the organization in Rajasthan, Bengal, Bihar and Maharashtra for which he was being paid Rs.10,000/- per month in his account. He was also given task of printing and pasting of pamphlets of PFI. He was provided explosives and weapons by PFI to be made available to other members of the organization. Accused Feroz disclosed that he was an active member of the PFI and he had reached Uttar Pradesh on instructions of the PFI with explosives, arms and ammunitions to be made available to other members of the PFI. Both the accused persons disclosed that they have been provided training and instructions by the PFI about use of knife, swords, petrol bombs etc. Ansaad Badruddin disclosed that the pages of the diary recovered from him have words such as attack, local, Ram Mandi, training, explain desert, management and mob attack and stated that it was part of physical training written in code language.

(b) The explosives recovered from the accused persons were examined by the FSL and as per FSL report they were high grade explosives containing ammonium, potassium, calcium nitrite, percolate etc. Chargesheet has been filed and charges have been framed against both the accused persons vide order dated 02.12.2022 by the Special Court, NIA / ATS, Lucknow in Sessions Case No.1309/2021. Certified copy of the said order is **Ex.PW14/L**.

**(ii) FIR No.199/2020 dated 07.10.2020 PS Maant, Mathura under Sections 153A, 295A, 124A of the IPC and Sections 17 and 18 of the UAPA**

(a) Four accused persons Atiqur Rehman, Aalam, Siddique Kapan and Masood Ahmad are alleged to have hatched a conspiracy and were going to Hathras to create enmity between different groups of persons on the basis race and religion under the guise of visiting Hathras to provoke riots, law and order disturbance on the grounds of caste, religions etc. They had a website cardd.co which had antinational propaganda relating to incidents of mob lynching and supporting separatist elements in Kashmir. It had received donations from foreign countries. These four persons were carrying large number of pamphlets including “Am I Not India’s Daughter” which could create enmity between different groups. Mobile phones seized from the accused persons revealed that they were in touch with Danish of PFI and Rauf Sherif of CFI. They were also in touch with Executive Members of PFI namely OMA Salam, P. Koya, E.M Abdul Rahman, Anish Ahmad, Mohammad Abid, Kamal K.P, Salim etc.

(b) Atiqur Rahman in his disclosure statement recorded in the case diary **Ex.PW26/C** disclosed that he was member of CFI since 2015 and was closely associated with M.S. Sajid and K.A. Rauf Sherif of CFI. Siddique Kappan disclosed that he worked as Journalist for Tejas which is the mouth piece of PFI. Masood Ahmad disclosed that was member of CFI who had been asked to go to Hathras by Rauf Sherif of CFI and had received payments from PFI. Alam disclosed that he had joined PFI at the instance of his brother Danish who was Ward President of PFI. Rauf Sherif disclosed that he was member of CFI since 2013 and used to collect funds from Gulf countries and that PFI used to prepare a hit squad and that Ansaad Badrudeen and Feroz were members of PFI. He disclosed that Siddique Kappan was working towards preparing atmosphere for Muslims and PFI and Ansaad Badruddin and Feroz used to travel across the country for preparing hard core members by giving them arms training. Accused Danish disclosed that he was associated with PFI since 2015. Accused Ansaad Badruddin disclosed that he was associated with PFI since 2010 and was member of

the hit squad of PFI and was imparting physical training to members of PFI. Feroz disclosed that he was associated with PFI since 2005 and used to impart arms training to members of the PFI.

(c) Investigation had revealed that the accused had conspired to incite discontent and disharmony amongst the dalit community by inciting feelings of resentment. Rauf Sherif of CFI had transferred money to the account of accused Atiqur Rehman. WhatsApp mobile data of Siddique Kappan and Rauf Sherif revealed that secret workshop was conducted in September 2020 by PFI where tasks were assigned to the accused in the meeting to commit incidents under the guise of communal / class conflict in Uttar Pradesh and in consequence of this meeting, the accused persons had traveled to Hathras. PFI had deposited money in the accounts of the accused persons for funding their activities. Rauf Sherif received funds from foreign countries which had been transferred to members of PFI and CFI. There was a common leadership controlling PFI and CFI. Booklet was recovered from the house of Siddique Kappan in Delhi containing reasons of SIMI being banned under the UAPA and steps to be taken to avoid such ban. These reasons were in the form of interview of SIMI members. It also indicated that after ban on SIMI, large numbers of members of SIMI formed the PFI. A book India's Liberation Through Islam only was recovered from the room of accused Siddique Kappan and from his laptop in word format. Chargesheet has been filed in this case and charges have been framed against the accused persons by order dated 19.12.2022 by the court of Special Judge NIA /ATS, Lucknow in Sessions Case No.2219/2021 Ex.PW26/F.

**(iii) Crime No. 425 of 2022 was registered by South Police Station, Alappuzha on 23-05-2022, for offences punishable under sections 153A, 293A, 505(1)(b), 505(1)(C), 505(2), 506, r/w section 149 of, the Indian Penal Code and Section 75 and 83(2) of Juvenile Justice Act and also Section 120(0) of Kerala Police Act of 2012**

(a) This case pertains to raising of provocative and hateful slogans at a massive public rally organized by the PFI with potential to disturb peace and communal harmony rally in Irumbupalam, Alappuzha, Kerala on 21.05.2022. A video Ex.PW99/E1 of duration 4 minutes 59 seconds was played in the Tribunal in which a child was seen on the shoulders of his father raising slogans in a PFI rally in Kerala. The FIR Ex.PW99/C contains an English translation of the slogans raised by the child in the PFI rally which is as under: -

*"We remember, we remember Gujarat,  
We will not forget, we will not forget Gujarat,  
Sanghee you should pray that we forget Gujarat.  
This is not Gujarat, this is not Gujarat, Kerla is not Gujarat.  
Buy and keep rice and recie flakes in your house  
One more thing, one more thing  
Buy and keep amber also in your house.  
Messengers of your death are on the way, on the way.  
If you live decently, you can live in our land,  
If you don 't, we know what to do.  
We will do sujoood in Babri  
We will do sujoood in Gyanvapi  
Insha Allah, Insha Allah  
You remember this you sanghee  
We won't leave for Pakistan, we won't leave for Bangladesh  
If we leave, if we leave, we will go 6 feet under  
If we go, if we go you listen you sanghee  
We will take you with us, when we got you sanghee  
Sanghee, sanghee, you listen, you listen,  
We remember, we remember Gujarat  
We will not forget Gujarat, we will not forget Gujarat  
Sanghee you should pray that we foget Gujarat  
This is not Gujarat, This is not Gujarat, Kerala is not Gujarat  
Marsalam, marsalam, ya shaheed marshalam,  
Shaheed Subair marsalam."*



(b) In this case the accused persons are members of the PFI who repeated the chants and slogans raised by the child which to the effect that death threats were being extended to a section of the population on religious lines. Disclosure statement Ex.PW99/C (colly.) of the accused persons admit that they are members of the PFI and that they had raised the same slogans in the march organized by the PFI.

**(iv) FIR No. RC-14/2022/NIA/DLI of NIA, Delhi registered at PS New Delhi u/s 120B and 153A of IPC, sections 17, 18, 18B, 20, 22B, 38 and 39 of UA (P) Act, 1967.**

(a) This case is regarding act of criminal conspiracy for raising or collecting funds by the office bearers and members of PFI from abroad and inside India for committing or getting committed terrorist acts in various parts of the country. Searches were conducted at 39 locations across ten States including the offices of the PFI. Incriminating documents and digital devices, 432 in number, were recovered which have been sent for forensic examination. Nineteen persons were arrested on 22.09.2022 namely A-1 OMA Salam @ O.M. Abdul Salam, E.M. Abdul Rahiman @ E M A-2, Vice Chairman, Anis Ahmed (A3), Afsar Pasha (A-4), V.P. NazarudheenElamaram @ NazaruddinElamaram (A5), E. Abubakar (A-6), Prof. P. KOya @ Kaleem Koya A7, M. Mohammed Ali Jinnah (A8), Abdul Wahid Sait (A9), A.S. Ismail @ Appamma Ismail (A10), Advocate Mohammed Yousuf (A11), Mohammed Basheer (A15), Shafeer K.P. (A16), Jaseer K.P. (A17), Shahid Nasir (A19), Waseem Ahmad (A21), Mohammed Shakif (A-22), Mohammed Farooq Rehaman @ Muhammed Farooq Ur Rahman (A23), Yasir Hasan @ Yasir Arafat Hasan @ Yasin (A24). During investigation when the accused persons were in police custody, social media extraction of online accounts was carried out which revealed that they were involved in unlawful activities. Bank accounts of the leaders and of the organization revealed payments being made to individuals involved in unlawful activities e.g. Ansaad Badrudeen, accused in FIR No.4/2021 PS ATS Gomti Nagar Lucknow had received payments from these accused persons. Periodical payments were made to persons imparting arms training from the bank account of PFI in Hyderabad. Trainees who have been given arms training were selected to the "service teams" of the PFI. These teams provide security to senior PFI members and also identified members of the RSS / BJP for targeted killings.

(b) Statements of eight protected witnesses have been recorded under section 161/164 of the CrPC. As per the same the ultimate goal of PFI was to bring Islamic Rule in India by 2047 through violence under the guise of Gazwa-E-Hind. Protected witness 'K' has stated that the members of PFI who were accused in this case give lectures and they want to raise an army of physically trained loyal cadres to make India into an Islamic nation and to establish Caliphate system by the year 2047 through an armed struggle Ghazwa -e-Hind. Protected witness has named National Executive Member of PFI to include Anis Ahmad, Mohd. Sakib, OMA Salam, Mohd Ali Jina, E. Abubacker, Professor Koya, Afsar Pasha, Abdul Wahid and E.M. Abdul Rehman. Protected witness 'G' has stated that the PFI wants to raise a parallel army to convert India into an Islamic nation by 2047 through Ghazwa-e-Hind and that PFI conducted physical classes to train members in fighting technics. Similar are the statements of protected witnesses 'F' and 'B'. Protected witness 'E' has stated that he was provided training in the use of weapons.

**(v) RC No.01/2011/NIA/DLI (previously Crime No.704/2010 registered at PS Muvattupuzha Police Station, Kerala) under Sections 143, 147, 148, 120B, 341, 427, 323, 324, 326, 506 (ii), 307 read with 149 of IPC and Section 3 of the Explosive Substances Act, 1908**

(a) Relates to victim Professor T.J. Joseph, Head of Department Malyalam, Newman College Thodupuzha Idukki District, Kerala who had prepared a question paper for internal examinations out of which one question allegedly contained derogatory remarks against the Prophet Mohd. leading to registration of FIR Thodupuzha PS Crime No.327/2010 against Professor T.J. Joseph under sections 153A / 295 IPC leading to his arrest. Members of the PFI and SDPI conspired to chop the palm of Professor T.J. Joseph. While Professor T.J. Joseph was on bail in FIR Thodupuzha PS Crime No.327/2010, he was attacked by a group of seven persons of PFI and SDPI on 04.07.2010 while coming back from the Church along with his mother and sister. The right palm of Professor T.J. Joseph was chopped off and thrown away in a nearby compound. By judgment dated 30.04.2015 of the Special NIA Court in Sessions Case No.01/2013 (NIA) 13 accused persons were convicted while the remaining were acquitted. Appeals have been filed by the convicted persons and by the State before the High Court of Kerala. Trial against 11 accused persons was pending and investigation was continuing against 12 accused persons. Some observations of the Special NIA Court made in the judgment dated 30.04.2015 Ex.PW41/C are as under: -

(b) Para 250 .... "Admittedly all the accused are members of PFI/SDPI. It is admitted that A32 was the then District President of PFI. So his presence at Seemas Auditorium, where the convention of SDPI was held in natural. So also, the presence of other accused who are the members of PFI/SDPI in the District convention of SDPI cannot be said to be suspicious."

(c) Para 405 ..... "At this juncture the allegations leveled by the prosecution ..... At the same time, we cannot ignore the fact that all the accused whose complicity have been proved are active workers of PFI. The prosecution has a definite case that A8 Younus Aliyar was the Muvattupuzha Division Convenor of PFI."

(d) Para 211 ... “The hand chopping incident inflated that feeling of ill will in the minds of the people belong to those religions. Ongoing through the entire evidence I find that A2, A3, A5 to A7 had intention to promote disharmony among the members of different religions. The attack on PW2 on the ground of belief promoted disharmony in the minds of those people. This point is found accordingly.”

(e) Previously, by order dated 13.11.2013 of the Court of CJM, Thodupuzha Professor T.J. Joseph was discharged in FIR Thodupuzha PS Crime No.327/2010 vide Ex.PW41/B.

**(vi) RC-05/2016/NIA/KOC (ISIS Omar Al Hindi Case) Ex.PW52/B**

(a) It was registered in pursuance of credible intelligence information received by the NIA about activities of 15 persons and their associates who were part of PFI and were in support of and owing allegiance to ISIS. Several persons were arrested. Manseed A1 and Safvan P A-9 were members of PFI and its affiliates. They voluntarily disclosed that they had communicated with co-conspirators inside and outside India on social media platforms like Facebook, Telegram etc and had collected funds to wage war against the Govt of India. In the personal search of Safvan P, a vehicle pass to attend PFI meeting held on 01.10.2016 was recovered from him. Mohd. Fayaz A5 has stated about association of A1 Manseed with PFI who had personally trained him i.e. A5 in the use of knife. A5 MohdFayaz made a voluntary confession which was recorded under section 164 of the CrPC by the concerned Magistrate. Chargesheet was filed before the Special NIA Court at Ernakulam, Kerala against 7 accused persons and thereafter against other accused persons. A5 Mohd. Fayaz deposed as PW100. By judgment dated 25.11.2019 Special NIA Court at Ernakulam convicted seven accused persons. In a separate trial by the Special NIA Court, A11 Subahani Haja was convicted by the judgment dated 25.09.2020. By subsequent judgement dated 20.04.2022, A8 and A16 were convicted after pleading guilty for the offences.

(b) Ex.PW52/C is the statement of Manseed A1 in which he stated that he was associated with SFI, India, PFI etc and A9 Safvan. Ex.PW52/D is the disclosure statement of accused A9 Safvan in which he disclosed his association with the PFI and PFI leaders. Ex.PW52/H is the deposition of PW100 Mohd Fayaz who was A5 and had turned approver. In the same PW100 deposed about his association with A1 Manseed who told him that A9 Safvan was a PFI leader. Ex.PW52/I is the judgment dated 25.11.2019 of the Special Court for NIA cases Ernakulam vide which A1 to A8 were convicted. In para 279 the trial court held as under: -

“(279) Points No.12 (Did the accused persons associate themselves or support a terrorist organization?): - From the elaborate discussion made above as to the evidence produced in this case, it is proved that A1, A2, A3 and A5 professed to be associated with ISIS, an organization included in the first schedule of the UA(P) Act as entry No.38 and they did so with the intent to further the activities of ISIS in Kerala. It is also proved that A4, as a member of all core groups acted in accordance with the directions of A7, who was openly acting as the close associate of ISIS. A4 forwarded the work of Ibn Nuhaas, a book suggested by A7 for promoting the views of ISIS, to A6, immediately after A6 was contacted by A1 (Ex.P121(j) (1), recovered from MO1). It can thus be easily inferred that A4 did the task for the purpose of propagating ISIS ideology. A4 and A8 also motivated the other members of the group by sharing messages and comments supporting ISIS. A7 and A1 had declared that ISIS appointed A7 as the “Amir” of those groups and even thereafter A4 and A8 continued to contribute their ideas in those groups. It was also declared in those groups that one of the major purposes of the team under the leadership of A7 and A1 was to start a vilayat of ISIS in Kerala. Subsequent to that revelation also, both of them continued to co-operate with them and helped them. As pointed out above, A4 openly declared that ‘proud to be a terrorist’.”

It is pertinent to mention that A1 is member of PFI.

**(vi) FIR No. RC-03/2022/NIA/HYD of NIA, Hyderabad (previously FIR 141/2022 dated 04.07.2022 at VI Town PS, Nizamabad District, Telangana, u/s 120B, 121A, 153A, 141 r/w 34 of IPC, section 13(1) (B) of UA(P) Act).**

(a) In this case accused persons were radicalizing Muslim Youth and recruiting them in PFI by conducting classes in three stages, first, second and third class of radicalization. In the first class, general assessment of prospective PFI cadre is made with respect to knowledge of Islam, poor situation of Muslims in India, atrocities committed on Muslims by right wing organizations. In the second class further radicalization is done by showing them hate speeches. Upon full radicalization, the person is found ready to join the PFI and is administered Bayath (oath of secrecy) and eligibles to PFI. Post recruitment PFI cadre is sent to terror camps organized by PFI under the guise of beginners course or yoga classes but they are trained to use knives, sickle, iron rods etc to attack on vulnerable areas.

(b) Searches were conducted at 48 premises of accused persons and PFI offices in Andhra Pradesh and Telangana leading to arrest of 9 accused persons namely Froz Khan (A-7), Mohammed Osman @ Usman (A-16), Syed Yahiya Sameer (A-17), Mohammed Irfan (A-29), Abdul Raheem (A-32), Shaik Wahed Ali (A-33),

Zafarulla Khan (A-34), Shaik Riyaz (A-35) and Abdul Waris (A-36) who were involved in radicalizing Muslim Youth on communal lines. Recoveries of documents from them revealed that their intention was to achieve the goal of bringing about Islamic Rule in India and to revive the caliphate system. Chargesheet has been filed against 36 persons while investigation against five persons is pending. Accused persons in their statements admitted their involvements in the offences.

(c) All the accused persons in this case belonged to PFI. They were radicalizing Muslim youth for recruitment to the PFI and were given classes on Islamic faith and knowledge and were imparted physical training including karate, use of knife, sickle etc on the vulnerable points of the human body. Training was imparted to them for Ghazwa-e-Hind to convert India into an Islamic Nation by 2047.

(d) Ex.PW45/F (colly.) are statements of witnesses recorded under section 161 of the CrPC. All the witnesses were recruited to PFI by the accused persons who belong to PFI by radicalizing them. Protected witnesses A and B have stated that Abdul Ahad was contact with National Executive Council (NEC) members Anees Ahmad and Afsar Pasha who gave the witness instructions to receive funds for organizing training programmes. Protected witness 'C' has stated that the training programmes were designed by Ibrahim of Kerala and funds are arranged by NEC members of PFI OMA Salam, Anees and others.

(e) ExPW45/G are the statements of witnesses recorded under section 164 of the CrPC. Protected witness 'A' has stated that Abdul Ahad told him that funds were coming from the PFI of which Anis Ahmad Afsar Pasha were members of National Executive Committee (NEC). Protected witness 'C' has stated that he was informed that the course was designed by Ibrahim and food, boarding, lodging had been arranged by the NEC headed by OMA Salam and Anees Ahmad who were PFI member. Protected witness 'D' has stated that Sajid @ Saju told him that he was only responsible for sending members of PFI for training and the training courses were designed by NEC. Protected witness 'E' has stated that Sheikh Illyas told him that OMA Salam, Anees Ahmad and others used to send funds to State leaders.

**(vii) RC/04/2016/NIA/HYD (Rudresh Murder case, previously Crime No.124/2016 PS Commercial Street, Bengaluru under sections 302/34 IPC dated 16.02.2016).**

(a) This case was registered on the complaint of Jayaram stating that after attending RSS route march he along with his friends including R. Rudresh had assembled near Srinivas Medical store, K. Kamraj Road Bengaluru when two unknown persons came on a motorcycle and its pillion rider attacked Rudresh with a sharp long machete on his neck and fled causing fatal injury to deceased Rudresh. Investigation by local police revealed that A1 Irfan Pasha, A2 Wasim Ahmad, A3 Mohd. Shadique, A4 Mohd. Mujeeb Ulla and A5 Asim Sherif, who were active members of the PFI had carried out the incident with the intention to strike terror in the minds of the general public and amongst members of RSS organization and Hindus at large. On the direction of the MHA the case was transferred to the NIA and re-registered as RC/04/2016/NIA/HYD. Investigation revealed that A5 was the President of Bengaluru unit of PFI. The murder of the deceased, and RSS leader was not a result of any personal enmity but deep rooted conspiracy to strike terror in the minds of Hindus and to create communal disharmony. Statements of witnesses were recorded. Waseem Ahmad A2 while committing the murder of R. Rudresh had shouted the words "Chinalke Kaffir" which means bastard and non believer. Accused persons admitted their role in the incident. Email and social media extraction with respect to A5 revealed that his email address showed connection with PFI. Chargesheet in the case was filed. Charge has been framed which was challenged unsuccessfully by the accused persons to the Supreme Court.

(b) Ex.PW93/C (colly.) are the statements of witnesses recorded under section 161 CrPC in which they have stated that the incident created fear in his mind from continuing RSS work and in the minds of persons belonging to Hindu community. Ex.PW93/H (colly.) are statements of accused persons in which the accused persons have disclosed that they were party workers of SDPI, PFI and Al-Ummah organization. They were told by their party cadres to create fear among Hindu organizations by killing Rudresh ruthlessly. They had made SDPI, PFI organizations to assist in the need of the family by the order of Allah. In Shivaji Nagar residents gave the post of secretary to BJP party and RSS worker Rudresh who had made some Muslims to join the BJP. Rudresh had taken out Ganesha procession which had not been done by any person previously. They disclosed that they decided not to allow Rudresh to grow and that they should kill him. Influenced by PFI and SDPI, the accused persons came forward to do this religious task. They decided to kill Rudresh and collected information on his movements, his house office and friends. Ex.PW93/G is the order dated 09.01.2018 by which formal charge was framed against all the accused persons for the offences under section 302 IPC and sections 16(1)(a) of the UAPA. After the Ld. Trial Court had rejected the discharge application. By order dated 22.11.2018 the High Court of Karnataka dismissed the petition of the accused persons against the order framing charge. The Supreme Court by order dated 01.07.2019 dismissed the appeal arising out of the order dated 22.11.2018 of the High Court. It is apparent from para 6 of the order of the Supreme Court that Ashim Shariff one of the accused of the case and petitioner before the Supreme Court had admitted being President of Bengaluru unit of PFI and other accused persons to be members of the PFI.

**(viii) RC 06/2019/ NIA/ DLI (previously Crime No.17/2019 on 06.02.2019 under sections 341, 294(b), and 307 of IPC which was registered at Thiruvaidaimarudhur Police Station, Thanjavur District, Tamil Nadu) was registered on the complaint of R. Shiyam Sundhar regarding attack on his father Ramalingam on 05.02.2019 by four persons with lethal weapons.**

(a) Ramalingam had opposed some persons who were engaging persons of the locality and trying to convince them to convert to Islam from Hindu religion. Ramalingam told those persons to leave. That day at about 11.35 pm some persons blocked the way of Ramalingam and his son and they attacked Ramalingam with deadly weapons referring to the incident which took place earlier that day leading to the death of Ramalingam. Ex.PW91/C (colly.) are the statements of the accused persons. All the accused persons stated themselves to be the members of the PFI. They stated that on 05.02.2019 they were propagating Islam religion in Paakuvinayakamthopu. At that time the deceased Ramalingam and his son Shyam Sunder came. Ramalingam sternly told them i.e. accused persons not to propagate Islam and to leave the place immediately due to which arguments took place between Ramalingam and Muslim persons. Ramalingam told them that they saw Christians and Muslims as brothers and did not consider anyone separate. Ramalingam said that why were they i.e. accused persons wanting to convert their religion. He stated that he could wear their cap and he could apply sacred ash on their forehead. Saying so Ramalingam took the cap of one person and placed it on his head and he put sacred ash on the forehead of the person from whom he took the cap. After the arguments hit up, Ramalingam and his son went away.

(c) In the disclosure statements it is further recorded that after the incident the accused persons discussed what Ramalingam had done and decided to protect Islamic religion by instilling fear in anyone who dared to ill treat Islam religion. They decided to cut both the hands of Ramalingam by which he took their sacred cap and worn on his head and applied sacred ash on the forehead of his brother. They decided to kill Ramalingam and then in pursuance of their conspiracy they committed his murder.

(d) Ex.PW72/B is the chargesheet filed after investigation. Ex.PW72/C are the orders dated 09.11.2019 and 15.02.2022 of the NIA Special Court Chennai by which charges were framed. Ex.PW72/G (colly.) contains the deposition of PW1, 2,3,5 and 14.

**(viii) ECIR /02/HIU/2018 and ECIR /STF/17/2022 registered by ED**

(a) ECIR /02/HIU/2018 was registered on 02.05.2018 on the basis of scheduled offence vide FIR No.RC-05/2013/ NIA/KOC dated 07.08.2013 of NIA, Kochi. As per the investigation of Kerala Police and NIA, group of PFI and SDPI activists entered into criminal conspiracy to impart training to their cadres in the use of explosives and weapons at a camp at Narath, Kannur District. Chargesheet of NIA was filed against 22 accused persons for the offences, inter-alia under sections 120(B), 143, 153-A & 153-B(1)(C) r/w 149 of IPC; sections 5 (1)(a) r/w 25 & 27 of the Arms Act; sections 4 & 5 of the Explosive Substances Act and sections 18 & 18A of the Unlawful Activities (Prevention) Act. As per the contents of the FIR and chargesheet filed in FIR No.RC-05/2013/NIA/KOC the accused persons appeared to have committed the offence under section 3 of the PMLA and thus case was registered by the ED for the same.

(b) ECIR/STF/17/2022 was registered by ED on 21.09.2022 on the basis of scheduled offence vide FIR No.RC-14/2022/NIA/ DLI dated 13.04.2022 registered by NIA Delhi. The same is related to information having been received by the Central Govt about office bearers and members of the PFI entering into conspiracy and raising funds within India and abroad through banking channels / hawala for committing or getting committed terrorist acts in various parts of India including Kerala, Tamil Nadu, Karnataka, Uttar Pradesh, Delhi etc. Anasud Badrudeen and Masud Ahmad, members of PFI who were involved in terror acts had received funds from accounts of PFI. These persons were involved in preparations for committing terrorist acts using weapons with intention to strike terror in the minds of the public. They were providing training to their members for these purposes. As the Central Govt was of the opinion that a scheduled offence had been committed under the NIA Act, 2008 direction was issued vide order dated 12.04.2022 by the MHA under section 6(5) of the NIA Act to take up the investigation. The accused persons had indulged in criminal conspiracy to raise funds from within India and abroad through banking channels / hawala / donations for committing or getting committed terrorist acts, it appeared that proceeds of crime had been generated by the accused persons by indulging in criminal act of conspiracy and the proceeds of crime had been used to commit various unlawful activities. It was also likely that proceeds of crime generated through the scheduled offence and related criminal activities had been laundered. Thus investigation was taken up under the PMLA to identify and prosecute the persons/ parties / entities who were involved in any process connected with the proceeds with crime.

(c) As per the evidence of Ms. Sonia Narang, Special Director, Directorate of Enforcement, ED had conducted investigation against PFI on the basis of cases registered by NIA and other law enforcement agencies including FIR No.RC-05/2013/NIA/KOC, FIR No.199/2020 dated 07.10.2020 PS Maant, UP, FIR 4/2021 dated 16.02.2021 of UP ATS, FIR RC 31/2022/ NIA/ DLI on the basis of FIR No.827/2022 dated 12.07.2022 PS Phulwari Sharif, Patna Bihar and FIR No.14/2022 / NIA / DLI dated 13.04.2022 of NIA.

Investigation revealed that PFI was raising funds in clandestine manner to fund their illegal and unlawful activities. More than Rs.60 crore had been deposited in the accounts of PFI since 2009 and more than half the amount was deposited in cash i.e. Rs.32.03 crore. Details of **cash** donors submitted by PFI during investigation revealed that the same were insufficient and vague. Deposits were not genuine. Statements recorded under section 50 of PMLA Act of donors as per list submitted by PFI revealed that they did not make any donation to PFI and they did not have financial capacity to do so. There were **bank transfers** into the accounts of PFI and equivalent amount of cash had been deposited in the accounts of the purported donors to show that the transfers were legitimate. Verification of some of the donors was carried out and their statements were recorded under section 50 of the PMLA in which they have stated that cash deposits in their accounts had been made by leaders of PFI.

(d) That a list of donors submitted by the PFI during investigation is Ex.PW30/L. Ex.PW30/M (colly.) are the statements of protected witnesses Gamma, Theta, Delta, Pi, Epsilon, Iota, Lamda, Kappa, Alpha and Beta. These witnesses in their statements under section 50 of the PMLA have stated that they had not made any donation to the PFI. They denied having any association with the PFI or SDPI. They have said that they are very poor people and do not have any financial capacity to have made donations as reflected in the list of donors Ex.PW30/L.

(e) As stated above, investigation had revealed bank transfers in the accounts of PFI. These were verified from the account statements of the purported transferers and it was found that equivalent amount of cash had been deposited in the accounts of the purported transferers to reflect that the transfers were genuine. Ex.PW30/N (colly) are the statements of witnesses (whose names were redacted) who the PFI claimed were their donors. These statements were recorded under section 17 and section 50 of the PMLA in which they have stated that the leaders of the PFI had made cash deposits in their accounts and then used their debit cards to make banking transfer of the deposited cash in the accounts of the PFI. These witnesses have stated that they have been associated with the PFI and / or members of the PFI and that the leaders of the PFI had requested them to permit them to use their personal bank accounts on the pretext of depositing of money collected during month of Ramzan to be used for religious purposes.

(f) Investigation and seizures at office premises of PFI at Unity House, Calicut reveals presence of PFI in Gulf countries and mobilization of funds abroad in a well structure manner. Ex.PW30/P is a seizure list which contains a list of PFI members and leaders based in Gulf countries including in the cities of Riyad, Dammam, Jeddah and Aseer of UAE and in the countries of Kuwait, Bhahran and Oman. Accused Rauf Sherif, admitted in his statements Ex.PW30/AB and Ex.PW30/R under section 50 of the PMLA that he is member PFI and National General Secretary of CFI and that PFI collects funds from Gulf countries. It works with Rehab India Foundation which collects funds from India and Gulf countries using PFI members in Gulf countries. Investigation revealed that Abdul Razak BP, member of PFI based in Abu Dhabi had transferred Rs.33,72,043/- to Rehab India Foundation and Shafeeque Payeth based in Qatar had transferred Rs.15,59,133/- to Rehab India Foundation. Ex.PW30/T are the extracts from the bank account statements of Abdul Razak BP and Shafeeque Payeth. Ex.PW30/W is the statement under section 50 PMLA of Abdul Razak BP in which he admitted against question no.5 that he was overlooking collection of donations for PFI which reflects in association with PFI. Rehab India Foundation was not found to be registered with FCRA but had received foreign funds of Rs.50,95,203/-. This amount was over and above the transferers made by Abdul Razak BP and Shafeeque Payeth who had routed their contributions first from their personal account abroad into their NRE accounts in India and then from the NRE accounts to the accounts of RIF through a layering process.

(g) K.A. Rauf Sherif in his statement under section 50 of PMLA Ex.PW30/R has stated that the CFI was the student wing of PFI. He stated that the President of CFI was elected by the PFI. Rauf Sherif further stated that CFI did not have any bank accounts and that he was using his personal accounts for the CFI. Rs.1.36 crore was transferred from abroad to the accounts of K.A. Rauf Sherif under the guise of international trade of goods.

(h) Investigation in ECIR/02/HIU/2018 revealed that PFI leaders and members were developing the residential projects – Munnar Villa Vista Project (MVVP) at Munnar Kerala to launder money collected from foreign countries and within India to generate funds for PFI for its illegal activities. Unexplained and unaccounted cash and foreign funds were deposited in the accounts of MVVP which is reflected in the prosecution complaint Ex.PW30/Y.

(i) K.A. Rauf Sherif in his statement Ex.PW30/R under section 50 of the PMLA has revealed that National Women's Front is the parallel organization of PFI as women cannot join PFI. Junior Front mobilizes students of schools below 15-17 years old as they cannot join PFI directly. They are then mobilized to join the PFI after they attained the required age. PFI coordinates with NCHRO to intervene in situations where matters of alleged Human Right violations take place. Rehab India Foundation is monitored by PFI through OMA Abdul Salam. Rehab India Foundation collects funds from India and Gulf countries and uses PFI members

for this purpose in Gulf countries. All India Imams Council mobilizes Imams all over the country. Some Imams are members of PFI.

(j) Investigation has further revealed that anti CAA protest of 2019 were funded from the accounts of PFI and Rehab India Foundation as deposits and withdrawals of money corresponds to the dates of the demonstrations against the CAA. An analysis chart prepared on the basis of the bank account statements of PFI and Rehab India Foundation is Ex.PW30/AH. Ansad Badrudeen who had been arrested in UP ATS FIR 4/2021 had received Rs.3,50,000/- in his bank accounts from various bank accounts of PFI from 2018 to 2021 with the last deposit of Rs.10,000/- being on 27.01.2021 which is 20 days prior to his arrest. Ex.PW31/A is the certified copy of the statement of bank account of Ansad Badruddin which reflects these entries. Documents seized from PFI office at Unity House Calicut include guidance and physical training camps conducted by PFI in Gulf countries where they have about 2000 members. This is reflected in Ex.PW30/AK which contains monthly reports of PFI Abu Dhabi, Jeddah, Kuwait and Indian Cities mentioning the number of members of PFI who have taken guidance, physical training and details of community development programmes. Searches carried out from residence of M. Mohammad Ismail of PFI revealed minutes of meeting of PFI leaders dated 10.11.2020. The diary also contains speeches of OMA Salam, M.K. Faizy, Naziruddin VP, Rauf Sherif, Abdul Hameed, CP Basheer etc. Ex.PW30/AL is extract of a diary seized from the residence of M. Mohammad Ismail of PFI which contains part of minutes of meeting of PFI leaders regarding their preparation for civil war like situation.

(k) Investigation revealed that four PFI / CFI members Atiqur Rahman, Mohd. Alam, Siddique Kappan and Masud Ahmad arrested by UP police in FIR No.199/2020 dated 07.10.2020 were on their way to Hathras to disturb communal harmony. The said visit was funded by K.A. Rauf Sherif of CFI. Atiqur Rahman in his statement under section 50 PMLA Ex.PW30/AM has stated that he is member of CFI which is a student organization of the PFI. He has stated that money was deposited in his account by K.A. Rauf Sherif to go to Hathras. Ex.PW30/AO is the copy of statement of account of Atiqur Rehman reflecting deposit of money in his account. Masud Ahmad in his statement Ex.PW30/AN under section 50 of the PMLA has stated that he is associated with the PFI having received scholarship from it and that he was member of the CFI and that he had accompanied with other co-accused persons on the instruction of Rauf Sherif and Atiqur Rehman to meet the victims of Hathras incident.

(l) Ext. PW32/B6 (colly) is a Power Point presentation "Meet our leaders new.ppt" found contained in one of the devices seized from office premises of PFI at Unity House Calicut Kerala. This was an external Hard Disk which was sealed and sent for examination to Directorate of Forensic Science Gandhi Nagar report of which is Ext. PW32/B4. The said report refers to the device as Parcel 3 Exh.3. and working copy of the same was extracted for investigation which is reflected in page 8 of the report. The document reveals that a beginners camp was to be held jointly on 21-25 Nov, 2020 for introduction of leaders of Popular Front of India, Social Democratic Party of India, National Women's Front, Campus Front of India, All India Imams Council, National Confederation of Human Rights Organization.

**(ix) RC-36/2022/NIA/DLI (Praveen Nettaru Murder case previously FIR No.63/2022 dated 27.07.2022 Bellare PS, Dakshina Kannada District Karnataka under sections 302/34/120B IPC and section 16 and 18 of UAPA)**

(a) This case was registered on the complaint of Madhu Kumar with the allegation that on 27.06.2022 he had gone inside of deceased Praveen Nettaru to bring his raincoat. When Praveen Nettaru was about to leave for his home on his motorcycle, three unknown assailants attacked the deceased and fled. Praveen Nettaru had suffered injuries on his head and neck and was brought dead to the hospital. He had 30 antemortem wounds on his body. Praveen Nettaru was District Committee member of Bhartiya Janta Yuva Morcha. Subsequently, the investigation was taken up by the NIA which re-registered the case as **RC-36/2022/NIA/DLI**. Investigation revealed that on 19.07.2022 one Masood of Kalanja village was fatally assaulted by persons belonging to Hindu community and after his funeral, provocative speech was made by accused persons who declared intention to take revenge by killing prominent leaders of Hindu Community. Investigation revealed that members of PFI had taken decision to kill the deceased after hatching conspiracy.

(b) There are 22 accused persons in this case all of whom are the members of PFI and members of PFI Service team in Bellare area. Ex.PW74/D is the statement of witness Noothna Kumari wife of the deceased who has stated that her husband was District Committee of Bhartiya Janta Yuva Morcha and was active in Hindu community activities. Ex.PW74/E is statement of Prashant Poonja who has stated that murder of Praveen Nettaru was committed to instill fear psychosis in the Hindu community. Similar is the statement of Prithvi Raj Ex.PW74/F.

(c) A12 Mohd Shafiq in his disclosure statement Ex.PW74/G has stated that he was an active member of the PFI and was President of Bellare PFI area. The intention to commit the offence was to scare the Hindu community by killing Hindu organization leaders. Ex.PW74/N is the disclosure statement of A8 Nowfal M in which he has stated that he was the active member of the PFI and had received special training and



instruction to be prepared to carry out all tasks given by PFI by hiding their identity. They had carried out the murder of Praveen Nettaro in retaliation of death of Masood. Similar statement has been given by A16 Sainul, A1 Mohd. Shiyab Ex.PW74/R, A2 Abdul Baseer Ex.PW74/S.

(d) Statements of protected witnesses have also been recorded under section 161 CrPC and 164 of the CrPC. Ex.PW74/UU is the statement under section 164 of protected witness 'R' who has stated that he was member of PFI and Rudresh murder case was discussed and it was debated that there was no proper planning for the incident and therefore it was decided to organize Service teams with proper leadership. Thereafter Service teams have been set up from members of PFI. He has stated that on 19.07.2022 one Masood was attacked by RSS organization who died after which meeting was conducted in PFI office on 23.07.2022 and Praveen Nettaru was murdered on 26.07.2022.

**(vii) There are several cases in the State of Uttar Pradesh, Andhra Pradesh, Madhya Pradesh, Maharashtra and cases investigated by NIA in which a document titled "India 2047 Towards Rule of Islam in India Internal document; Not for circulation", has been recovered. These cases are: -**

FIR No.411/2022, PS Kharkhoda, Meerut, Khand, Uttar Pradesh

FIR No.45/2022, PS Madyeganj, Lucknow, Uttar Pradesh

FIR No.112/2022, PS Adampur Varanasi, Uttar Pradesh

RC 03/2022/NIA/ HYD

RC 31/2022/ NIA /DLI

RC 41/2022/ NIA/ DLI

RC 14/2022/NIA / DLI

FIR Cr.No.43/2022 dated 22.09.2022 registered at PS STF/ATS, Bhopal, M.P. u/s 121A, 153A, 120B IPC and 13 (1) (B), 18 UAP Act, 1967

CR No. 19/2022, u/s 120-B, 121-A, 153-A, 201, 116 of IPC r/w U/s 13(1)(b) of Unlawful Activities (Prevention) Act, 1967 registered on 21/09/2022 at ATS Kalachowki Police Station, Mumbai, Maharashtra

(a) The document has been exhibited in several of the cases by several witnesses. It is divided into sections as under: -

(i) Bismillah hir-Rahman nir-Rahim

(ii) Present state of Muslim community

(iii) Here comes India 2047

(iv) Stages of progression towards Islamic rule

(v) PFI in every house strategy

(vi) Recruitment and Training of Members

(vii) Current Actionable points

(b) In the document there is mention about the Muslim community in India being in pathetic conditions who were being systematically and increasingly marginalized in their home land. Rise of sectarian Hindutava forces has further aggravated the socio-economic and political conditions of Muslims. It was severely deprived of good organization or leadership. Leadership has to emerge from within the community to protect from the immediate threats and to provide a real development model for the deprived sections of the society based on freedom, truth and equal enforcement. This was the role the Popular Front of India saw itself in. 2047CE signified the end of a century of Independent India. They dreamt a 2047 where the political power has returned to the Muslim community from whom it was unjustly taken away by the British Raj. It mentions that the roadmaps starts with socio-economic development of Muslim community for which a separate roadmap was already provide in the name of Empower India Foundation. They have given themselves a target of 2047 CE to bring about an Islamic Government in this country. PFI was confident that even if 10% of total Muslim population rally behind it, PFI would subjugate the coward majority community to their knees and bring back the glory of Islam in India. The document states that PFI cadres and Muslim youths should be repeatedly told that they all were working for Deen. Allah had created the work / Kayanaat and Muslims were made for two reasons, the first to establish the law of Allah and secondly Muslims are Daai on earth. This should always be kept in mind that the rule of Islam has to be established.

(c) The document envisages a four stage progress towards achieving the goal. In the first stage they need it to establish themselves wherever Muslims were available and try to unite them all under the flag of PFI irrespective of their sects and affiliations. PFI was to reach every house of the nation and to recruit at least one from each family to the organization. Training of all PFI cadres and sympathizers in basic physical education. In the second stage they have to strength and spread the narrative of grievances far and wide, endeavour for mass mobilization under the leadership of PFI and use violence selectively to demonstrate their strength and terrorise their opponents, while limiting exposure of our trained cadres to security forces. In the third stage, the party should form close alliances with SCs/STs/OBCs and win elections at all levels at least in few seats. In the final stage, the party should become the undisputed leader and representative of entire Muslim community by sidelining all other Muslim organizations.

(d) The document then refers to current actionable points: -

**Establishment of Grievances**-There must be concerted efforts by all State units to make Muslims believe that the RSS led Govt was planning to declare India a Hindu Rashtra and drive Muslims out of the country.

**Mass Mobilisation**- Through the mass mobilization they aimed to rally as many Muslims as possible behind PFI for which they have to reach them and educate them the seriousness of the situation.

**Collection of Information against Hindu/Sangh Parivar leaders**- It was imperative to collect and keep ready detailed information about the personal details of Hindu/ RSS leaders and locations of their offices before the stage of final show down comes.

**External Help**- It is stated that in the scenario of full fledged show down with the State, apart from relying on our trained PE cadres, we would need help from friendly Islamic countries. In the last few years, PFI has developed friendly relationship with Turkey, a flag bearer of Islam. Efforts are on to cultivate reliable friendship in some other Islamic countries.

(viii) In W.P.(C) 16249/2012 titled **Sidhik Rawther vs. The District Police Chief and Another in the High Court of Kerala Ernakulam**, an affidavit was filed by senior Government pleader on 23.07.2012 wherein he has stated that the PFI is the communal fundamentalist organisation which originated from National Democratic Front and started functioning in the State from 2007 onwards. He further stated that the objectives of the PFI are not different from that of the objective of the NDF. The deponent stated that the PFI was born on 19.12.2006 in the coordination meeting of NDF, MNP, KFD and all these organizations are Muslim fundamentalist organisations. The deponent stated that the PFI though it is an organization registered as a charitable trust under the Societies Registration Act, 1860, but the activities of the organization is nothing but communalism, fundamentalism and dissemination of anti-national propaganda with vigorous attacks on other religions than the Muslim Religion.

#### **EVIDENCE SHOWING LINKAGES BETWEEN PFI AND ITS AFFILIATES, FRONTS OR ASSOCIATES**

332. The following evidences which have come on record clearly brings out linkages between PFI and its associates / fronts /affiliates which have been banned together with the PFI: -

(a) Ex.PW30/R is the statement of Rauf Sherif recorded under section 50 of the PMLA in which he stated that the President of the CFI is elected by the National body of PFI. He has stated that the CFI is the student organization of PFI and all works of CFI are done on the instructions of the President of CFI as he is the only person in CFI elected by the PFI. He has stated that the NWF works as a parallel organization for the PFI as women cannot join PFI directly and that some leader from PFI is always there to monitor and guide the work of NWF. He has stated the Junior Front mobilizes students at the school level below the age of 15 years. Students cannot join PFI directly till they are 15-17 years of age but Junior Front mobilizes students to join the PFI after they attain the requisite age. Leaders of PFI monitor the work of Junior Front. PFI coordinates with NCHRO to intervene in matters of human rights violations and it works for human rights of PFI and general public. He has stated that the Rehab India Foundation is monitored by PFI through leaders of PFI including OMA Abdul Salam. The All India Imams Council mobilizes Imams in every State who can join the PFI directly and some leader from PFI is always there to monitor and guide the work to be done by AIIC.

(b) Ex.PW30/X is the statement of M.K. Ashraf recorded under section 50 of the PMLA in which he has stated that CFI, AIIC and NWF are connected with the PFI.

(c) Ext. PW32/B6 (colly) is a Power Point presentation "Meet our leaders new.ppt" found contained in one of the devices seized from office premises of PFI at Unity House Calicut Kerala.

The document reveals that a beginners camp was to be held jointly on 21-25 Nov, 2020 for introduction of leaders of Popular Front of India, Social Democratic Party of India, National Women's Front, Campus Front of India, All India Imams Council, National Confederation of Human Rights Organization.

(d) Ex.PW51/J is a statement of A. Mohd Faruq recorded in RC6/2019/NIA /DLI in which he has stated that Mohd. Burhanudeen, his son an accused in the Ramalingam murder case is a leader of PFI and SDPI who was absconding from home after the murder. His other son Abdul Thayyan is the District Committee Member of CFI which is the student organization under the PFI. He has stated that his wife Fatima Beevi is an activist of NWF which is under PFI.

(e) Ex.PW63/C (colly.) are statements of witnesses (names redacted in RC41/2022/NIA /DLI) in which it is stated that CFI, NWF, AIIC and SDPI are sister agencies of PFI.

(f) Ex.PW67/G (colly.) is statement of protected witness in which it is stated that CFI, Junior Front, NWF, AIIC are all frontal / sister organizations of PFI.

(g) Ex.PW80/I (colly.) contains the statement of Hera Moinuddin in which it is stated that she was asked to join the NWF because women were needed in different agitations of the PFI.

(h) Ex.PW93/H (colly.) are confessional statements of accused persons recorded in CR 124/2016 PS Commercial Street, Bengaluru (Rudresh murder case) in which the accused persons have admitted being members of SDPI and PFI. Reference has been made in the statements to NWF, CFI, RIF, AIIC, NCHRO and SDTU in the context of their aim to make India into a Muslim country by 2047 through violent means.

(i) Ex.PW26/C is the confessional statement of Rauf Sherif recorded in FIR No.199/2020 dated 07.10.2020 PS Maant, UP in which it is stated that NCHRO mobilizes funds for PFI and that Junior Front and Women's Front are associated with the PFI.

(j) Ex.PW100/D (colly.) is the statement of accused persons recorded in C.R.No. 318 of 2022 was registered at the Town South Police Station, Palakkad in which accused Kaja Hussain has stated that he is holding the post of District Treasurer of NCHRO and was an ordinary member of PFI for the past ten years.

(k) Ex.PW30/S is the bank account statement of Rehab India Foundation revealing receipt of funds from foreign countries without having registration under the FCRA and Ex.PW30/T is the bank account statement of Abdul Razak BP who has made remittances to Rehab India Foundation.

(l) As per Ex.PW30/AF, accused persons in RC31/2022/NIA/DLI who were members of PFI had received funds from PFI and Rehab India Foundation.

(m) Ex.PW67/G (colly.) is the statement of protected witness in which it is recorded that NWF, CFI, Junior Front, Rehab India Foundation, AIIC are frontal organizations of the PFI.

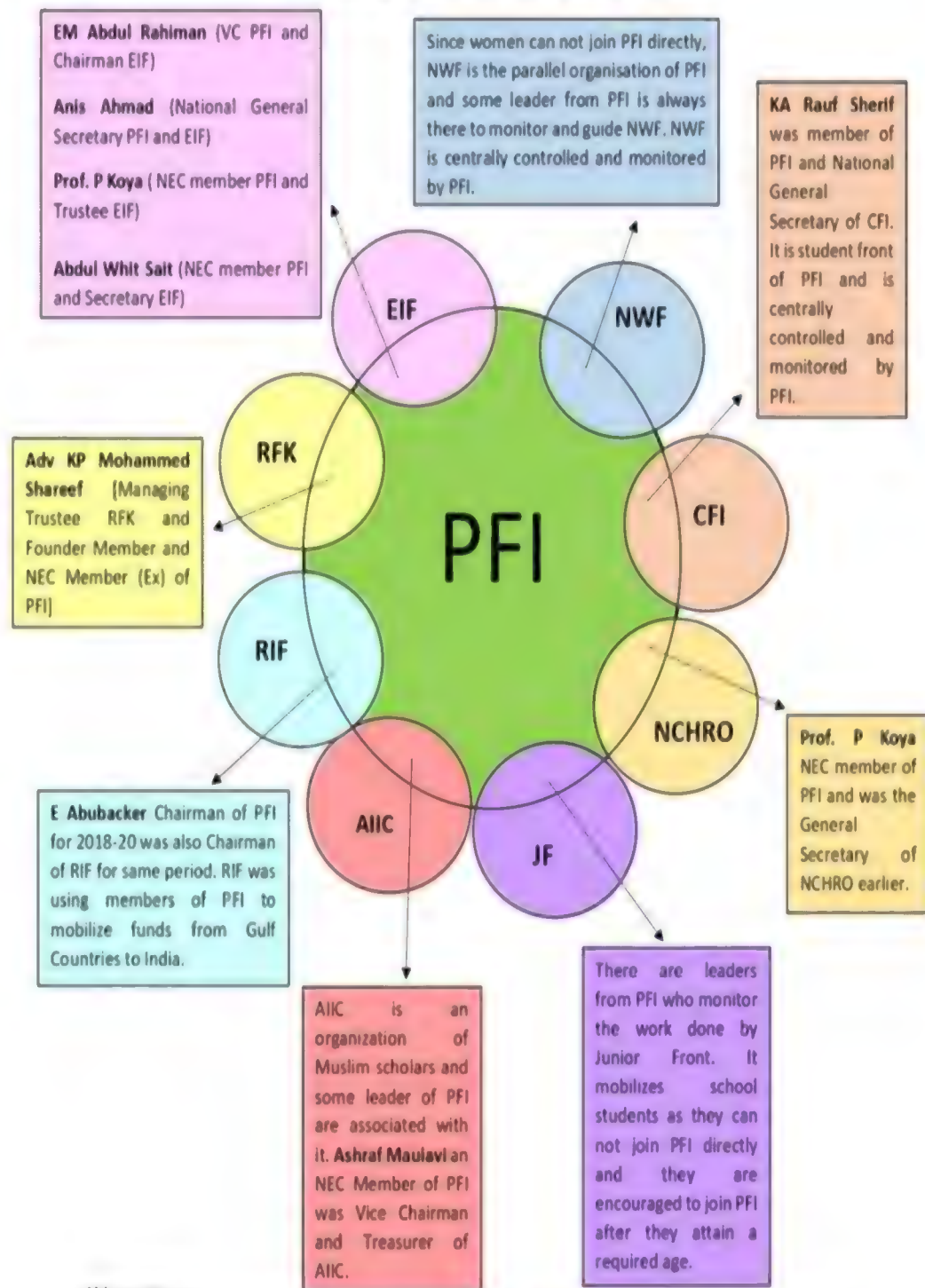
(n) Ex.PW85/Z (colly.) reveals that A6 Umer Habib Shaikh of PFI had received money from Rehab India Foundation.

(o) Ex.PW85/W (colly.) reveals bank transfer from Rehab India Foundation to the account of accused Parvez Mujimil Khan of PFI.

(p) RW9 Mr. Mohammad Raphy PP the former Chairman of Empower India Foundation has placed on record a book titled India 2047 which at internal page 183 mentions National Seminars of Empower India Foundation having been sponsored by Rehab India Foundation, NWF and AIIC. It also mentions presence of members of PFI in the seminars of Empower India Foundation including Professor P. Koya, Professor A. Marx, E.M. Abdul Rahiman, Lubna Sarbat. The project coordination committee includes E.M.Abdul Rahiman, E. Abubacker, Prof. P. Koya, OMA Salam who all were associated with PFI.

333. The above mentioned linkages which have surfaced during the evidence led by the Union of India and in particular the testimony of the officers of the Enforcement Directorate. The linkages between the PFI and other associates/ affiliates / fronts are also writ large from the confidential documents placed by the Central Govt as well as the documents produced by the witnesses of the banned organizations. Perusal of the confidential documents by the Tribunal have revealed certain sensitive documents of the top intelligence agencies confirming the linkages between the PFI and its associates/ affiliates / fronts. These linkages can be depicted as under: -

### Some Examples showing Links of PFI with its Associates or Affiliates or Fronts



#### Abbreviations:

**PFI** – Popular Front of India, **NWF**- National Women's Front, **CFI**- Campus Front of India, **NCHRO**- National Confederation of Human Rights Organisation , **JF**-Junior Front, **AIIC**- All India Imams Council, **RIF**-Rehab Indian Foundation, **RFK**- Rehab Foundation, Kerala, **EIF**-Empower India Foundation, **NEC of PFI**- National Executive Committee of PFI

334. The banned organizations have also summoned and examined 9 witnesses who were mostly the officer bearers of the banned organizations. These witnesses in detail deposed about the activities undertaken by their organizations. The plea of the respondents' witnesses were that the central government has banned their organization illegally and unlawfully. However, in regard to the alleged unlawful activities committed by the organizations, their office bearers and members, no material was produced to demolish the same at the level preponderance of probabilities.

335. The provisions relevant for adjudicating the sufficient cause for banning the PFI and its associates /affiliates / fronts and declaring them "unlawful association" having indulged in "unlawful activities" are as under:-

*"2.Definitions (1) In this Act, unless the context otherwise requires, —*

*xxxx*

*xxxxx*

*xxxxx*

*(o) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise)-*

*(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or*

*(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or*

*(iii) which causes or is intended to cause disaffection against India;"*

336. The definition of "unlawful activity" reveals that if an individual or association takes any action whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise (i) which is intended to support any claim to bring about on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or (ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or (iii) which causes or is intended to cause disaffection against India.

337. In order to declare an activity as an unlawful activity by an individual or association, it is not necessary that all the above ingredients must be satisfied. The use of the word "or" makes it explicit that the intention of the legislature is that if an individual or association who commits any act by word either spoken or written or by sign or visible representation, any of such acts is sufficient to bring that activity within the sphere of unlawful activity. Thus there may be a possibility that commission of an act may not amount to cession or secession but it may be intended to cause disaffection against India or to disrupt the sovereignty and territorial integrity of India. The concept of "sovereignty" and "territorial integrity" of a country and "disaffection against India" are very subjective terms. These words can be interpreted in a pure literal sense and cannot be confined in a watertight compartment. The activity alleged to have been committed by an individual or association has to be read or understood as a whole in the context of an act or conduct of the association as well as the existing situation in the country. Thus, this Tribunal is endowed with a duty to see that whether the associations, which have been banned by the Notification, or their acts or conduct whether spoken or written falls within the sphere of unlawful activity.

338. The term unlawful association is defined under Section 2(1)(p) of UAPA, which reads as under:-

*"2.Definitions (1) In this Act, unless the context otherwise requires, —*

*xxxx*

*xxxxx*

*xxxxx*

*(p) "unlawful association" means any association, —*

*(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or*

*(ii) which has for its object any activity which is punishable under section 153A (45 of 1860) or section 153B of the Indian Penal Code, or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:*

*Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir."*

339. A reading of Section 2(1)(p) makes it clear that an association becomes unlawful in two ways: (i) by connecting itself with an unlawful activity, as defined under Section 2(1)(o) of the Act; (ii) to connect with any activity as defined under Section 153A and 153B of the IPC. Further perusal of Section 2(1)(p)(ii) also makes it clear that it

also includes an association, which for achieving its objects commits any activity punishable under Section 153A and 153B or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity. For a better understanding, Section 2(1)(p)(ii) has to be read step by step. Firstly, the unlawful association commits any activity/act which is punishable under Section 153A or 153B of the IPC; secondly, the association encourages or aid any other person to undertake any such activity or the member of such association undertakes such activity. Thus reading of this provision would make it clear that in a given scenario an association may for public perception have no such object but it encourages or aids person to undertake any such activity, which is defined under Section 2(1)(o), or the members of such association undertake any such activity, as defined under Section 2(1)(o) of the Act or the offence punishable under Section 153A and 153B of IPC. Thus if any of the above provisions were to be established then it can be inferred that the association is or has become an unlawful association. The Central Government in exercise of the above said relevant provisions of UAPA issued a Notification No.S.O.4559 (E) dated 28.09.2022 published in the Gazette on 28.09.2022.

340. The Tribunal in its discussion herein above has extensively discussed the procedure adopted by the Tribunal. The Tribunal has taken into consideration the documents produced by the Union of India in a sealed cover with the claim of privilege, the evidence led by the Union of India and by the respondents. The Tribunal has also taken into account the objections being raised by the opposite parties during the production of the evidence and also has dealt with the same at the appropriate place and manner. The claim of privilege by the Union of India has been decided in favour of the Union of India and the documents placed by them have been seen by the Tribunal and the documents have been found to be credible and of such a nature that the non-disclosure of which could be in the interest of the public. First of all, it is necessary to understand that even though the Courts and the Tribunal exercise judicial power and discharge similar functions, there are certain well-recognised differences between them. In this regard, reference can be made to **Union of India v. Madaras Bar Association** 2010 11 SCC 1 wherein it was *inter alia* held as under:

*“45. Though both courts and tribunals exercise judicial power and discharge similar functions, there are certain well-recognized differences between courts and tribunals. They are:*

*(i) Courts are established by the State and are entrusted with the State's inherent judicial power for administration of justice in general.*

*(ii) Tribunals are established under a statute to adjudicate upon disputes arising under the said statute, or disputes of a specified nature. Therefore, all courts are tribunals. But all tribunals are not courts.*

*(iii) Courts are exclusively manned by Judges. Tribunals can have a Judge as the sole member, or can have a combination of a judicial member and a technical member who is an “expert” in the field to which the tribunal relates. Some highly specialised fact-finding tribunals may have only technical members, but they are rare and are exceptions.*

*(iv) While courts are governed by detailed statutory procedural rules, in particular the Code of Civil Procedure and the Evidence Act, requiring an elaborate procedure in decision making, tribunals generally regulate their own procedure applying the provisions of the Code of Civil Procedure only where it is required, and without being restricted by the strict rules of the Evidence Act.”*

341. During the course of the proceedings of this Tribunal, the complete rules of natural justice were followed and the Banned Organisations were given the fullest opportunity of cross-examining the witnesses and adducing all the relevant evidence on which they relied.

342. The learned counsels for the Banned Organisations have also taken a plea that since in some of the cases accused persons have either been discharged or acquitted, the evidence being led by the Union of India should not be taken into the consideration. In this regard, it is necessary to mention that the standard of proof in civil and criminal proceedings is entirely different, i.e. of the preponderance of the probability and proof beyond reasonable doubt, respectively. Reference can be made to the case of **Iqbal Singh Marwah v. Meenakshi Marwah** (2005) 4 SCC 370 wherein it was *inter alia* held as under:

*“32.Coming to the last contention that an effort should be made to avoid conflict of findings between the civil and criminal Courts, it is necessary to point out that the standard of proof required in the two proceedings are entirely different. Civil cases are decided on the basis of preponderance of evidence while in a criminal case the entire burden lies on the prosecution and proof beyond reasonable doubt has to be given. There is neither any statutory provision nor any legal principle that the findings recorded in one proceeding may be treated as final or binding in the other, as both the cases have to be decided on the basis of the evidence adduced therein.”*

343. It is a settled proposition that the findings of the fact recorded by the Civil Court do not have any bearing so far as the criminal proceedings are concerned and vice versa. In this regard, it is also pertinent to mention here that the accused persons against whom such findings of discharge or acquittal have been recorded were not the party before this Tribunal. It is no more *res integra* that proceeding before the Tribunal is not a trial but only an inquiry. The nature of inquiry demands that the adjudication is to be made after affording an opportunity to the banned



organizations in accordance with the principles of natural justice and it should be substantially in consonance with the material required to support a judicial determination. The law as laid down in *Jamaat-E-Islami Hind* (supra) is quite clear that the tribunal should have the means and material to ascertain the credibility of conflicting evidence so as to enable it to decide that which one is to be accepted. The Tribunal cannot allow it to abdicate its function and cannot be give a mere stamp of approval to the opinion of the central government. The tribunal is required to assess itself the credibility of conflicting material on any point in controversy. While appreciating the evidence, the Tribunal has to keep in mind that the unlawful activities of an association are generally clandestine in nature. The collection of evidence in such a case is a herculean task. The collection of material in such a case also requires utmost confidentiality in public interest and certainly this is the reason for providing non-disclosure of sensitive information and evidence to the association and its office bearers. However, the central government is duty bound to furnish the entire material to the tribunal. It is also pertinent to mention here that in *Jamaat-E-Islami Hind* it has been specifically laid down that the tribunal may evolve its own procedure. However, such procedure must satisfy the minimum requirement of principles of natural justice. Such procedure may also be tailored to suit the circumstances of each case. It is vital to protect the rights of association and its members without damaging the public interest. The tribunal as indicated above has gone through the confidential documents produced by the central government and has assessed the credibility and is satisfied with the same.

344. The requirement of production of confidential material before the Tribunal is in fact reposing complete trust in the tribunal conducting the inquiry. It has to be understood that there can be no better custodian or guardian of the interest of justice than the court trying the case. Reliance can be placed upon *Mukund Lal vs. Union of India and another*, 1989 Supp (1) SCC 622. It is also pertinent to mention here that this concept of public interest is taken into account even in the criminal proceedings qua the accused, whereas in juxtaposition, the present matter stands at a much higher pedestal and involves the issue of sovereignty and integrity of the country.

345. It is pertinent to mention that, in the cases concerning national security, sovereignty and integrity, the tribunal has to interpret and analyze the material differently. This tribunal is conscious of the fact that the tribunal cannot merely act on the *ipse dixit* of the central government. However, at the same time, the tribunal must also take into account the fact that the decisions taken by the central in such manner are based on highly sensitive information and inputs. The effects of such decisions are not confined to the boundaries of the nation. In fact, in the present scenario when the terrorist activities and national insurgency is on rise, the global boundaries have become meaningless. The insurgency in a State or activities of any association which is suspected to be unlawful has bearing effect on the credibility of the nation itself. In *Raj Kumar Singh vs. State of Bihar* (1986) 4 SCC 407 in a case of preventive detention, the Supreme Court inter alia held as under:

*“The executive authority is not the sole judge of what is required for national security or public order. But the court cannot substitute its decision if the executive authority or the appropriate authority acts on proper materials and reasonably and rationally comes to that conclusion even though a conclusion with which the court might not be in agreement. It is not for the court to put itself in the position of the detaining authority and to satisfy itself that untested facts reveal a path of crime provided these facts are relevant. See in this connection the observations of O. Chinnappa Reddy, J. in Vijay Narain Singh case [(1984) 3 SCC 14 : 1984 SCC (Cri) 361 : AIR 1984 SC 1334 : (1984) 3 SCR 435] at p. 440 and 441. (SCC p. 19, para 1)”*

346. Similarly, in the case of *Union of India vs. Rajasthan High Court*, (2017) 2 SCC 599: 2016 SCC OnOnlineSC 1468

*“... It was not for the Court in the exercise of its power of judicial review to suggest a policy which it considered fit. The formulation of suggestions by the High Court for framing a National Security Policy travelled far beyond the legitimate domain of judicial review. Formulation of such a policy is based on information and inputs which are not available to the court. The court is not an expert in such matters. Judicial review is concerned with the legality of executive action and the court can interfere only where there is a breach of law or a violation of the Constitution.”*

347. Mr.Tushar Mehta, learned SG has also placed reliance has been placed upon *Ex-Armymen's Protection Services (P) Ltd. v. Union of India*, (2014) 5 SCC 409, wherein it has been inter alia as under:

*“15. It is difficult to define in exact terms as to what is “national security”. However, the same would generally include socio-political stability, territorial integrity, economic solidarity and strength, ecological balance, cultural cohesiveness, external peace, etc.*

*16. What is in the interest of national security is not a question of law. It is a matter of policy. It is not for the court to decide whether something is in the interest of the State or not. It should be left to the executive. To quote Lord Hoffman in Secy. of State for Home Deptt. v. Rehman [(2003) 1 AC 153 : (2001) 3 WLR 877 : (2002) 1 All ER 122 (HL)] : (AC p. 192C)*

*“... [in the matter] of national security is not a question of law. It is a matter of judgment and policy. Under the Constitution of the United Kingdom and most other countries, decisions as to whether something is or is not in the interests of national security are not a matter for judicial decision. They are entrusted to the executive.”*

**17. Thus, in a situation of national security, a party cannot insist for the strict observance of the principles of natural justice. In such cases, it is the duty of the court to read into and provide for statutory exclusion, if not expressly provided in the rules governing the field. Depending on the facts of the particular case, it will however be open to the court to satisfy itself whether there were justifiable facts, and in that regard, the court is entitled to call for the files and see whether it is a case where the interest of national security is involved. Once the State is of the stand that the issue involves national security, the court shall not disclose the reasons to the affected party.”**

348. The purpose of citing these observations of the apex court is only to buttress the point that this Tribunal is bestowed with a very solemn duty of adjudicating the validity of a ban imposed upon certain associations declared unlawful for its unlawful activities. It may be reiterated that Article 19 which is contained Part III of the Constitution of India confers fundamental right to form association with reasonable restriction as provided under Article 19 (4) of the Constitution of India. On the one hand, the stake is sovereignty and integrity of the country and on the other hand is the right of certain associations and its members. The argument that only some of the cases have been placed by the central government has no basis. Even a single case in which an innocent has lost his/her life and if the perpetrator of that crime is that association or the member of that association, it is enough to take a decision of banning the same. If a disease takes place in a body the doctor does not allow it to blow fully. The action is taken immediately so as to contain the further damages. The case set up by the Central Government is like such where some malignancy is growing in the nation which has to be curbed immediately.

349. It is also relevant to mention here that while examining such decisions though the Tribunal is required to scrutinize the decision, but more importantly, the Tribunal is to examine the procedure for arriving at such a decision. If the procedure adopted by the authorities concerned is in consonance with the law and on relevant material, the court normally should not look into sufficiency of those reasons. Reliance can be placed upon ***M Jhangir Bhatusha v. Union of India***, 1989 Supp (2) SCC 201: AIR 1989 SC 1713, wherein the supreme court has held as under:

*“.....It has set out the reasons which prompted it to pass the orders. In our opinion, the circumstances mentioned in those notifications cannot be said to be irrelevant or unreasonable. **It is not for this Court to sit in judgment on the sufficiency of those reasons. The limitations on the jurisdiction of the court in cases where the satisfaction has been entrusted to executive authority to judge the necessity for passing orders is well defined and has been long accepted.**”*

350. Sh. Tushar Mehta, learned SG had submitted that even the foreign courts had taken strict view in cases involving national security. He had relied upon ***Council of Civil Service Unions and Others and Minister of Civil Service***, (1984) 3WLR 1174 and ***Regina vs. Secretary of State for the Home Department***, Ex parte Cheblak, (1991) 1 WLR 890 (the Weekly Law Reports 23 August 1991). Before the House of Lords in the matter concerning national security in ***Council of Civil Service Unions and Others and Minister of Civil Service***, (1984) 3WLR 1174 (Lord Fraser of Tullybelton, Lord Scarman, Lord Diplock, Lord Roskill and Lord Brightman) the foreign court has also taken a strict view in the matter concerning national security. In order to understand the observations made by the House of Lords, it is imperative to refer the brief background of the said case which reads as under:

*“The trade unions, and some at least of the employees at GCHQ, objected strongly to the decision made on 22 December 1983 and announced on 25 January 1984. Representatives of the trade unions met the Minister for the Civil Service on two occasions in February 1984 to express their objections. They also met Sir Robert Armstrong several times. They presented a draft agreement to prevent disruption at certain parts of GCHQ but the draft was rejected by the Government and no agreement was reached about changing the Government's decision. Eventually the first and second appellants obtained leave from Glidewell J. on 8 March 1984 to bring proceedings for judicial review against the Minister for the Civil Service in respect of the instruction of 22 December 1983 and against the Foreign Secretary in respect of certificates which he had issued under the Employment Protection Act 1975, section 121(4), and the Employment Protection (Consolidation) Act 1978, section 138(4), to give effect to the instruction by discontinuing, on national security grounds, the right of staff to appeal to industrial tribunals. The attack on these certificates has been abandoned, and the attack on the instruction is now limited to seeking a declaration that it is invalid; the remedy of certiorari is no longer sought.*

*Glidewell J. granted a declaration that*

*“the instruction purportedly issued by the Minister for the Civil Service on 22 December 1983 that the terms and conditions of service of civil servants serving at GCHQ should be revised so as to*

*exclude membership of any trade union other than a departmental staff association approved by the Director of GCHQ was invalid and of no effect."*

*His reason for granting the declaration was that there had been a procedural irregularity in failing to consult before issuing the instruction. I take this opportunity of expressing my respectful admiration for the carefully reasoned opinion of the learned judge which has substantially assisted me and, I believe, my noble and learned friends.*

*Against that declaration the respondent appealed. The Court of Appeal (Lord Lane C.J., Watkins and May L.J.J.) reversed the judge's decision and dismissed the appellants' application for judicial review. They also dismissed a cross-appeal by the appellants.*

*The appeal raises a number of questions. I shall consider first the question which I regard as the most important and also the most difficult."*

351. The House of Lords after discussing the issue of royal prerogative made certain important observations on national security which is as under:

*"The issue here is not whether the minister's instruction was proper or fair or justifiable on its merits. These matters are not for the courts to determine. The sole issue is whether the decision on which the instruction was based was reached by a process that was fair to the staff at GCHQ. As my noble and learned friend Lord Brightman said in Chief Constable of the North Wales Police v. Evans [1982] 1 W.L.R. 1155, 1173: "Judicial review is concerned, not with the decision, but with the decision-making process."*

*I have already explained my reasons for holding that, if no question of national security arose, the decision-making process in this case would have been unfair. The respondent's case is that she deliberately made the decision without prior consultation because prior consultation "would involve a real risk that it would occasion the very kind of disruption [at GCHQ] which was a threat to national security and which it was intended to avoid." I have quoted from paragraph 27(i) of the respondent's printed case. Mr. Blom-Cooper conceded that a reasonable minister could reasonably have taken that view, but he argued strongly that the respondent had failed to show that that was in fact the reason for her decision. He supported his argument by saying, as I think was conceded by Mr. Alexander, that the reason given in paragraph 27(i) had not been mentioned to Glidewell J. and that it had only emerged before the Court of Appeal. He described it as an "afterthought" and invited the House to hold that it had not been shown to have been the true reason.*

*The question is one of evidence. The decision on whether the requirements of national security outweigh the duty of fairness in any particular case is for the Government and not for the courts; the Government alone has access to the necessary information, and in any event the judicial process is unsuitable for reaching decisions on national security. But if the decision is successfully challenged, on the ground that it has been reached by a process which is unfair, then the Government is under an obligation to produce evidence that the decision was in fact based on grounds of national security. Authority for both these points is found in The Zamora [1916] 2 A.C. 77. The former point is dealt with in the well known passage from the advice of the Judicial Committee delivered by Lord Parker of Waddington, at p. 107:*

*"Those who are responsible for the national security must be the sole judges of what the national security requires. It would be obviously undesirable that such matters should be made the subject of evidence in a court of law or otherwise discussed in public."*

*The second point, less often referred to, appears at p. 106 and more particularly at p. 108 where this passage occurs:*

*"In their Lordships' opinion the order appealed from was wrong, not because, as contended by the appellants, there is by international law no right at all to requisition ships or goods in the custody of the court, but because the judge had before him no satisfactory evidence that such a right was exercisable." (Emphasis added.)*

*What was required was evidence that a cargo of copper in the custody of the Prize Court was urgently required for national purposes, but no evidence had been directed to that point. The claim on behalf of the Crown that it was entitled to requisition the copper therefore failed; considering that the decision was made in 1916 at a critical stage of the 1914-1918 war, it was a strong one. In Chandler v. Director of Public Prosecutions [1964] A.C. 763, which was an appeal by persons who had been convicted of a breach of the peace under section 1 of the Official Secrets Act 1911 by arranging a demonstration by the Campaign for Nuclear Disarmament on an operational airfield at Wethersfield, Lord Reid said, at p. 790:*

*"The question more frequently arises as to what is or is not in the public interest. I do not subscribe to the view that the Government or a minister must always or even as a general rule have the last word about that. But here we are dealing with a very special matter — interfering with a prohibited place which Wethersfield was."*

*But the court had had before it evidence from an Air Commodore that the airfield was of importance for national security. Both Lord Reid and Viscount Radcliffe, at p. 796, referred to the evidence as being relevant to their refusal of the appeal.*

*The evidence in support of this part of the respondent's case came from Sir Robert Armstrong in his first affidavit, especially at paragraph 16. Mr. Blom-Cooper rightly pointed out that the affidavit does not in terms directly support paragraph 27(i), ante p. 1188C. But it does set out the respondent's view that to have entered into prior consultation would have served to bring out the vulnerability of areas of operation to those who had shown themselves ready to organise disruption. That must be read along with the earlier parts of the affidavit in which Sir Robert had dealt in some detail with the attitude of the trade unions which I have referred to earlier in this speech. The affidavit, read as a whole, does in my opinion undoubtedly constitute evidence that the Minister did indeed consider that prior consultation would have involved a risk of precipitating disruption at GCHQ. I am accordingly of opinion that the respondent has shown that her decision was one which not only could reasonably have been based, but was in fact based, on considerations of national security, which outweighed what would otherwise have been the reasonable expectation on the part of the appellants for prior consultation. In deciding that matter, I must with respect differ from the decision of Glidewell J. but, as I have mentioned, I do so on a point that was not argued to him."*

352. The observation of Lord Fraser of Tullybelton, was also assented by Lord Scarman and reads as under:

*"My Lords, I would dismiss this appeal for one reason only. I am satisfied that the respondent has made out a case on the ground of national security. Notwithstanding the criticisms which can be made of the evidence and despite the fact that the point was not raised, or, if it was, was not clearly made before the case reached the Court of Appeal. I have no doubt that the respondent refused to consult the unions before issuing her instruction of the 22 December 1983 because she feared that, if she did, union-organised disruption of the monitoring services of GCHQ could well result. I am further satisfied that the fear was one which a reasonable minister in the circumstances in which she found herself could reasonably entertain. I am also satisfied that a reasonable minister could reasonably consider such disruption to constitute a threat to national security. I would, therefore, deny relief to the appellants upon their application for judicial review of the instruction, the effect of which was that staff at GCHQ would no longer be permitted to belong to a national trade union."*

*The point of principle in the appeal is as to the duty of the court when in proceedings properly brought before it a question arises as to what is required in the interest of national security. The question may arise in ordinary litigation between private persons as to their private rights and obligations: and it can arise, as in this case, in proceedings for judicial review of a decision by a public authority. The question can take one of several forms. It may be a question of fact which Parliament has left to the court to determine: see for an example section 10 of the Contempt of Court Act 1981. It may arise for consideration as a factor in the exercise of an executive discretionary power. But, however it arises, it is a matter to be considered by the court in the circumstances and context of the case. Though there are limits dictated by law and common sense which the court must observe in dealing with the question, the court does not abdicate its judicial function. If the question arises as a matter of fact, the court requires evidence to be given. If it arises as a factor to be considered in reviewing the exercise of a discretionary power, evidence is also needed so that the court may determine whether it should intervene to correct excess or abuse of the power."*

353. Lord Scarman on the point of national security thus concluded as under:

*"...Therefore, that where a question as to the interest of national security arises in judicial proceedings the court has to act on evidence. In some cases a judge or jury is required by law to be satisfied that the interest is proved to exist: in others, the interest is a factor to be considered in the review of the exercise of an executive discretionary power. Once the factual basis is established by evidence so that the court is satisfied that the interest of national security is a relevant factor to be considered in the determination of the case, the court will accept the opinion of the Crown or its responsible officer as to what is required to meet it, unless it is possible to show that the opinion was one which no reasonable minister advising the Crown could in the circumstances reasonably have held. There is no abdication of the judicial function, but there is a common sense limitation recognised by the judges as to what is justiciable: and the limitation is entirely consistent with the general development of the modern case law of judicial review."*

354. In *Regina vs. Secretary of State for the Home Department*, Ex parte Cheblak, (1991) 1 WLR 890 (the Weekly Law Reports 23 August 1991) before the Court of Appeal (Lord Donaldson of Lymington M.R., Beldam and Nolan L.JJ.), the facts were as follows:

*"In this case the applicant, Mr. Cheblak, who is a citizen of the Lebanon, seeks the assistance of this court in two wholly different, but interrelated, ways. First, he appeals against the refusal by Simon Brown J. on 23 January 1991 to issue a writ of habeas corpus directed to the governor of the prison in which the applicant is at present confined and requiring him to bring the applicant to court with a view to his being freed from confinement. Second, he renews a parallel application which he made unsuccessfully to Simon Brown J. on the same occasion seeking leave to bring proceedings for judicial review of a decision of the Secretary of State for the Home Department to serve notice of intended deportation upon the applicant.*

*At the conclusion of the hearing we announced our intention to dismiss the appeal and to refuse leave to apply for judicial review, indicating that we would put our reasons into writing and hand them down as soon as possible."*

355. In this case Lord Donaldson of Lymington M.R., inter alia held as under:

*"So is this court, but two comments may perhaps be made. The first is that, although they give rise to tensions at the interface, "national security" and "civil liberties" are on the same side. In accepting, as we must, that to some extent the needs of national security must displace civil liberties, albeit to the least possible extent, it is not irrelevant to remember that the maintenance of national security underpins and is the foundation of all our civil liberties. The second is that it is not only national security which creates such tensions. So does the ordinary administration of justice. A citizen is charged with a very serious offence and remanded in custody. Later at his trial or on appeal he is acquitted. Only he will know for certain whether on the evidence he was extremely lucky to be acquitted, whether he was entitled to be acquitted because, although he did it, the prosecution could not prove it or whether he was wholly innocent. Since the system does not, and perhaps very seldom could, differentiate between these three categories, the wholly innocent accused, who alone has a real grievance at having been detained in prison pending his trial, has to accept his misfortune as part of the price of citizenship in a society in which the rule of law prevails.*

*The jurisdiction of the courts is not, and never has been all-embracing. Thus they have no right to consider obligations arising under international treaties. In the case of national security, the responsibility is exclusively that of the government of the day, but its powers are limited by statute and the courts will intervene if it is shown that the minister responsible has acted otherwise than in good faith or has in any way overstepped the limitations upon his authority which are imposed by the law. No lack of good faith has been suggested in this case, but we have fully and speedily investigated the allegation that the Secretary of State had no power to detain the applicant."*

356. In a separate but concurrent opinion Lord Beldam L.J. inter alia held as under:

*"... For my part, I prefer the construction based on the terms of section 15(3) that the interests of national security, the relations between the United Kingdom and any other country and reasons of a political nature are the reasons for a decision that the deportation is conducive to the public good. Accordingly I would hold that the notice was in accordance with the Regulations and that the authority for detention is, on the face of it, a valid authority.*

*Can the court inquire further in a case such as this to review the reasons and the facts on which the decision was based? It is not a case in which the ground of decision is based on any precedent fact. The discretion given to the Secretary of State is unfettered and no question of bad faith is raised. Lord Atkin, whose judgment in *Liversidge v. Anderson* [1942] A.C. was also his judgment in the case which immediately followed, *Greene v. Secretary of State for Home Affairs* [1942] A.C. 284, tentatively suggested that the applicant could rely upon the presumption against imprisonment and putting material before the court to lead to the conclusion that the imprisonment was unlawful, throw the onus upon the Secretary of State. On the other hand, Viscount Maugham and Lord Wright in the same case were firmly of the opinion that it was unnecessary for the Secretary of State in such a case to file evidence at all. It is well settled that the courts must accept the evidence of the Crown and its officers on matters of national security. The reasons were clearly expressed by Geoffrey Lane L.J. in the passage of his judgment in *Reg. v. Secretary of State for Home Affairs, Ex parte Hosenball* [1977] 1 W.L.R. 766 to which Lord Donaldson of Lymington M.R. has already referred. To the same effect Lord Scarman said in *Council of Civil Service Unions v. Minister for the Civil Service* [1985] A.C. 374, 406:*

*"Once the factual basis is established by evidence so that the court is satisfied that the interest of national security is a relevant factor to be considered in the determination of the case, the court will*

*accept the opinion of the Crown or its responsible officer as to what is required to meet it, unless it is possible to show that the opinion was one which no reasonable minister advising the Crown could in the circumstances reasonably have held. There is no abdication of the judicial function, but there is a common sense limitation recognised by the judges as to what is justiciable: and the limitation is entirely consistent with the general development of the modern case law of judicial review."*

*Parliament has conferred on the Secretary of State the power to say when the deportation of a foreign national is conducive to the public good for reasons of national security. Although the reasons may not seem convincing to the court because of lack of any information upon which the decision is based, the statement that to give further information might jeopardise national security is one that the court is bound to accept. For these reasons I would uphold the decision to refuse the applicant a writ of habeas corpus and leave to bring proceedings for judicial review."*

357. Learned counsels for the Banned Organizations have argued repeatedly that the notification issued by the Central Government is aimed against the particular Muslim Community. It has been stated that since the formation of this Government, efforts are being made to suppress the voice of Muslims. Even, in the cross-examination, certain suggestions were made to the effect that the persons from the particular community were being targeted and false cases were made against them and terms like Islamophobia or de-democratizing the democratic associations were made. However, it is a matter of record that no substantive material has been placed on the record which could show that the purpose and aim of the notification is aimed against the particular community. The Tribunal has also examined the notification and the entire material on the record with a very objective view and has not found anything on the record which would suggest that the notification and the action on the part of the Government is aimed against the particular community. It is also pertinent to mention that Sh. S. V. Raju, learned ASG has repeatedly stated at Bar that the Central Government is not against any particular community. However, the Central Govt is against the unlawful activities and unlawful associations. In absence of any specific material on the record to suggest that the notification banning PFI or its fronts, affiliates or associates is against a particular community, this Tribunal cannot reject the otherwise credible case of the Central Government only on the basis of such unsubstantiated remarks.

358. The objections which have been filed by the PFI and other organisations are predominantly on the ground that firstly, earlier the complete material was not supplied to them and Secondly, the objective of these organisations on record is to carry on the noble activities for the upliftment of the poor and none of their activities were aimed at damaging the sovereignty or integrity of this country. Learned counsel during cross-examination and their arguments have submitted that they have full faith in the Constitution of India and that they have conducted the programmes celebrating and promoting the sovereignty and integrity of this country. During the course of the arguments, it was argued by Sh. S. V. Raju, learned ASG that these associations maintain a different façade to protect themselves from law, but actually these associations are unlawful associations and indulging in unlawful activities as defined in the UAPA. The case of the Central Government is that though the facade of all these organizations may look to be noble but actually their activities are conducted in a clandestine manner and have brought on record sufficient and impeccable material to show that these associations, their office bearers and their members are indulging in unlawful activities which make these associations as unlawful associations.

359. Though the evidence of the Central Govt has been discussed in detail, this Tribunal would like to refer to the cross examination of PW45 where the witness voluntarily stated that participants were imparted weapon training for Muslim youth on the use of knife, sickle, iron rods to attack and kill youth of other religious groups particularly Hindu and RSS organizations. It has also come in the evidence that the banned organization used to prepare the hit list of the members / office bearers of Hindu organizations.

360. The PFI has consistently taken a plea in the cross examination of the witnesses of the Central Govt that no proof has been produced to show that the accused persons were members of PFI in the form of membership identity card, membership form etc. In this regard it is relevant to refer to the testimony of RW 6 who deposed that in the PFI there is no procedure for the documentation of the membership and no receipt / acknowledgement is issued to the members. He also stated that membership register was maintained at the local unit level and PFI does not issue any membership I-CARD.

361. Sh. Ashok Aggarwal and other learned counsels for the Banned Organisations have also submitted that the majority of the cases were registered in 2022 and particularly, between 19.09.2022 to 25.09.2022. This argument is also noted to be rejected. Firstly, for the reason that the gravity of the case cannot be ignored only because of the proximity of time and merely because such case was not registered earlier. It has already been argued by the Central Government and accepted that for the purpose of banning an organisation or holding it to be an unlawful organisation, the particular number of cases is not required. Even a single case where the act was done with an aim to damage the "sovereignty" or "integrity" of this country is sufficient to declare such association as an "unlawful association" and the members of the such association can be said to be indulging in "unlawful activities" within the parameters of the UAPA, 1967. In respect of the linkage of the other associates, fronts and affiliates of PFI, the material and specific evidence of sterling nature linking these associations has already been discussed in detail. Even a chart which is part



of the report shows that all these organisations are , in fact, interlinked. There is sufficient material on the record which shows the transfer of funds from one association to another.

362. Sh. Mobin Akhtar, learned counsel for CFI and AIIC has taken an additional argument that the Central Government could not have banned the PFI and other organisations by a single notification. In support of his contention, learned counsel has placed reliance upon *Union of India vs. Raj Kumar*: 2003 6 SCC 516. However this contention is only noted to be rejected as the central government has by its notification banned the PFI and other organizations are its associates / fronts / affiliates. Even otherwise in such cases the Tribunal cannot take a hypertechnical view.

363. Ld. Counsels for the banned organizations had submitted that there was no proper service of notice of the Tribunal. It had also been submitted that notice did not accompany the relied upon material of the UOI. In this regard it is to be seen that notice was issued by proceeding dated 31.10.2022 to the banned organizations for 08.12.2022. Except for Junior Front, all other organizations had entered into appearance through their Ld. Counsels on or before 08.12.2022. The Junior Front despite having been served did not appear to show cause that why the association should not be declared unlawful. Rule 6 of the UAP Rules prescribes multiple modes of service of notice of the Tribunal which includes affixation, serving by registered post and proclaiming by beat of drums. The purpose of issuance of notice is to inform the banned organizations about the Constitution of the Tribunal under Section 5 of the UAPA and opportunity to show cause to the Reference made to the Tribunal. In the present matter all the banned organizations except Junior Front appeared on the first date of hearing of the matter i.e. on 08.12.2022. Copies of the Background Note and Annexures were made available. Even though the banned organizations filed their objections beyond limitation they were read by the Tribunal. In these facts and circumstances, it cannot be said that no effective notice of the proceedings of this Tribunal were served upon the banned organizations. It may be reiterated that the Junior Front despite having been served did not appear to show cause that why the association should not be declared unlawful.

364. The plea that PW 98 is not a competent witness as raised by Sh. P.A. Noor Muhamed, Ld. Counsel is also liable to be rejected having no basis, as Rule 11 of the Government of India (Transaction of Business) Rules, 1961 merely provides that in each department, the Secretary (which term includes the Special Secretary or Additional Secretary or Joint Secretary in independent charge) shall be the administrative head thereof, and shall be responsible for the proper transaction of business and the careful observance of these rules in that department. However nothing has been produced by Mr. P.A. Noor Muhamed to show that how and why Mr. Dharmender Kumar is not a competent witness. On the other hand, Mr. Dharmender Kumar in his affidavit PW98/A has specifically deposed that he has duly been authorized by the Central Govt to depose in this case. It may also be mentioned that even in the affidavit filed by Sh. Ajay Kumar Bhalla, Secretary in the Govt of India, Ministry of Home Affairs dated 24.02.2023 (filed by the Central Govt along with reply to IA No.26/2023) that his affidavit is in furtherance of the affidavit filed by PW98 Dharmender Kumar, which reflects that PW98 was duly authorized by the Secretary, Ministry of Home Affairs to depose before this Tribunal.

365. There is no ulterior reason or motive which can be attributed on the part of the Central Government to ban these organisations. If a party alleges malice on another party, it is for the said party asserting the malice to prove it by way of positive evidence. The Banned Organisations in their evidence or even in the course of the arguments have brought nothing of this sort on record. This Tribunal would also like to record that in the matters concerning national security, the tribunal has to take different paradigm.

366. Learned SG has placed reliance upon *Raj Kumar Singh vs. State of Bihar* (1986) 4 SCC 407 wherein Hon'ble the Supreme Court has held as under:

*“14. The executive authority is not the sole judge of what is required for national security or public order. **But the court cannot substitute its decision if the executive authority or the appropriate authority acts on proper materials and reasonably and rationally comes to that conclusion even though a conclusion with which the court might not be in agreement. It is not for the court to put itself in the position of the detaining authority and to satisfy itself that untested facts reveal a path of crime provided these facts are relevant.** See in this connection the observations of O. Chinnappa Reddy, J. in *Vijay Narain Singh case* [(1984) 3 SCC 14 : 1984 SCC (Cri) 361 : AIR 1984 SC 1334 : (1984) 3 SCR 435] at p. 440 and 441. (SCC p. 19, para 1)”*

367. This Tribunal has minutely gone through the documents placed by the Central Government in the sealed cover. The documents placed on record by the Union of India reveal the clandestine operations being taken up by these banned organizations, which are certainly detrimental to the sovereignty and integrity of the country. The material produced also proves linkage between the PFI and its associates, affiliates or fronts which have been banned by the Central Government vide its notification No.S.O.4559 dated 28.09.2022. The argument of learned counsels that these documents have been manufactured after the notification is totally unfounded as some of the documents being placed before this Tribunal are even a decade old and they make reference to some of the cases mentioned in the notification and cases in respect of which evidence has been led before this Tribunal. The documents produced reveal the preparation and various activities being undertaken by such associations. It is in the public interest not to discuss

any further the nature of such materials being in the public interest. The duty of the Tribunal is to see whether the Government had sufficient relevant material to arrive at a particular conclusion. The satisfaction of the government has to be subjective satisfaction on the basis of such material. The matter to be examined is that whether such satisfaction is founded to based on irrelevant, extraneous material, or wholly in absence of any material, only then the decision of the Government is bound to be struck down.

368. It has to be kept in mind that in the case of an unlawful association or its members, the activities are conducted under a cover and in clandestine manner. Such activities rarely and in most cases are not carried out in open and full public view. Such associations carry out their activities under camouflage, and deceit and after adopting cover-up tactics. In such cases, the general public also does not come forward to testify and give evidence due to fear and threat of reprisal. In order to unearth the truth, the Tribunal has to pierce through the veil of secrecy to reach the goal. Therefore, in such cases, some inferences have to be drawn from the acts done over time for which evidence has been produced about the indulgence of the organisation or its member regarding their unlawful activities and unlawful associations.

369. It is pertinent to mention here that as per the mandate of Section 4 of the UAPA, the Tribunal has a duty to adjudicate whether or not there is "sufficient cause" available to the Central Government when Notification No. S.O. 4559 (E) dated 27.09.2022 was issued. The duty of the Tribunal is to satisfy whether these documents can be relied upon to ascertain "sufficiency of cause" and whether the agencies responsible for the enforcement of law and order could or could not have ignored the same for recommending suitable action under the Unlawful Activities (Prevention) Act, 1967. The Tribunal has carefully gone through the entire evidence produced by the Union of India and the banned organizations and have found that on the scale of the preponderance of probability the evidence being produced by Union of India is irrefutable and having more weight as compared to the banned organizations who have only deposed about their stated objectives in public domain and malice of the central government without any basis. The material and the evidence produced by the Central Government is irrefutable in nature and carries greater weight on the scale of preponderance of probability as compared to the banned organizations. The said material has been found by this Tribunal to be capable of objective determination.

370. The Tribunal considers that the allegations made by Banned organizations that the Central Govt has issued the notification for political gain or with ulterior motive is liable to be rejected outrightly as having been made without any basis or substance. The plea of some of the banned organizations that there is not even a single criminal case against them and therefore the ban could not have been imposed is also liable to be rejected as the Central Govt has proved by affirmative evidence their linkages with PFI.

### **CONCLUSION**

371. The Tribunal has strictly followed the procedure laid down in the Unlawful Activities (Prevention) Act, 1967 and its Rules. The Tribunal has independently and objectively appreciated and evaluated the material evidence on record. The Tribunal is of the firm and considered view that there was sufficient cause for declaring the Popular Front of India (PFI) and its associates / affiliates / fronts namely Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women's Front (NWF), Junior Front (JF), Empower India Foundation (EIF) and Rehab Foundation, Kerala (RFK) as "unlawful association" under section 3 (1) of the Unlawful Activities (Prevention) Act, 1967 with immediate effect under section 3(3). Thus, an order is passed under Section 4(3) of the UAPA 1967 confirming the declaration made in the notification bearing No.S.O.4559 (E) dated 27<sup>th</sup> September, 2022, published in the Official Gazette on 28<sup>th</sup> September, 2022 issued under Section 3(1) of the Unlawful Activities (Prevention) Act, 1967.

**DINESH KUMAR SHARMA, J.**

**UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL**

**MARCH 21, 2023**

[F. No.14017/2/2023-NI-MFO]

PRAVEEN VASHISTA, Addl. Secy.